S. HRG. 101-500

MONEY LAUNDERING IN FLORIDA: BANKING COMPLIANCE, FEDERAL ENFORCEMENT MEASURES, AND THE EFFICACY OF CURRENT LAW

HEARING

BEFORE THE

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

HOW FEDERAL AGENCIES ASSIGNED TO MONEY LAUNDERING OPERATIONS CARRY OUT THEIR ASSIGNMENTS IN FLORIDA, WHAT STATUTORY TOOLS THEY USE TO CARRY OUT MONEY LAUNDERING INVESTIGATIONS AND THE PARTICULAR PROBLEMS FINANCIAL INSTITUTIONS FACE WHEN OPERATING IN A REGION KNOWN TO BE A MAJOR PORT OF ENTRY FOR DRUGS AND A MAJOR PORT OF EXIT FOR DRUG PROFITS

DECEMBER 4, 1989—FORT LAUDERDALE, FL

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MONEY LAUNDERING IN FLORIDA: BANKING COMPLIANCE, FEDERAL ENFORCEMENT MEASURES, AND THE EFFICACY OF CURRENT LAW

MONDAY, DECEMBER 4, 1989

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS,
Ft. Lauderdale, FL.

The subcommittee met at 10:05 a.m., pursuant to notice, in room 422, Broward County Commission Chambers, 115 S. Andrews, Ft. Lauderdale, FL, Senator Bob Graham, presiding.

Present: Senator Graham, and Congressman Shaw.

OPENING STATEMENT OF SENATOR GRAHAM

Senator GRAHAM. Good morning. It is a great pleasure to Chair this morning's meeting of the Senate Banking Subcommittee on Consumer and Regulatory Affairs.

Before we begin, I would like to extend my thanks to the Chairman of the Subcommittee, Senator Alan Dixon, who I hope will be joining us later during the morning. Senator Dixon has been extremely cooperative in facilitating this hearing today.

I would also like to thank my colleague from the House of Representatives, Congressman Clay Shaw. Congressman Shaw is Chairman of the House Republican Research Committee Drugs Task Force and he has a very keen interest in the issue of money laundering and drugs. And, again, I hope that Congressman Shaw will be joining the hearing in progress.

Our first panel this morning is made up of members of various Federal agencies with important roles in money laundering investigations, the Department of Justice, IRS, the U.S. Customs Service, DEA and the U.S. Attorney's Office.

From panel one we hope to learn more about how Federal agencies assigned to money laundering operations carry out their assignments in Florida, what statutory tools they use to carry out money laundering investigations and how we in Congress may help them in their efforts.

Because we are in Florida, experts from the regional money laundering operations will be speaking specifically about their programs here. At the Senate Banking Committee on Money Laundering on November 1, 1989, in Washington we heard testimony that raised questions about the status of Operation Greenback, a joint

Federal operation investigating money laundering operations. I hope that today's hearings will allow us to answer some of those questions.

The second panel consists of equally knowledgeable participants, but from the private sector and the State of Florida. Their testimony will help educate the subcommittee on regulatory and compliance issues as well as expose us to the particular problems financial institutions face when operating in a region known to be a major port of entry for drugs and a major port of exit for drug profits.

The States and banks have been helping Federal law enforcement agencies collect currency transaction data and investigate money laundering cases. Both panels will address how we can improve the data collection process and speak to the issue of Federal-State cooperation in sharing that data.

Money laundering is not a new activity. Organized crime has always used the process to hide its illegal profits. But the narcotics traffickers have refocused law enforcement's attention on the process because of the incredible amount of money which they are laundering.

In Florida the impact that dirty money has had on our local economies, real estate values and banking practices is well documented. It is commonly estimated that drug traffickers' illegal profits are larger than the gross profits of all of the Fortune 500 companies combined. That is over $100 billion per year.

Targeting drug profits may not have the dramatic effect of a multi-ton cocaine haul, but narco-traffickers are profit motivated businessmen. We can help shut their businesses down by affecting their bottom line.

I look forward to hearing today's testimony and learning from the distinguished panels that are assembled.

We have now been joined by Congressman Shaw. Welcome to the hearing, Mr. Congressman. If you have any opening statement, we would be pleased to hear it.

OPENING REMARKS OF CLAY E. SHAW, U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Congressman SHAW. Thank you, Senator. I have no prepared opening statement, but I want to welcome you to Broward County. I well remember as a State Senator I believe part of your district did come into South Broward, and of course as Governor of the State of Florida and now as U.S. Senator you are certainly an adopted son, if not a son, of Broward County as well as all of Florida.

Your opening statement is I think most accurate with regard to the money laundering. We all know that money is the fuel that runs the machine of illegal narcotics across the country, and any way that we can interrupt the flow of cash, the free flow of cash from the people that are buying the drugs to the drug dealer, it's certainly going to be very effective. I want to congratulate you for calling this hearing, and I'm grateful that it's here in Broward County so that I might be able to participate as a partner with you in it.

Thank you very much.

Senator GRAHAM. Thank you very much, Mr. Congressman, and I want to thank you and your office for your help in organizing this hearing today and also to the Broward County Government and the Broward County Commission for allowing us to use their facilities as the venue for this hearing.

Our first panel, which will focus on the role of the principal Federal agencies, our first speaker will be Mr. Charles Saphos, Chief, Narcotics and Dangerous Drugs Section of the Criminal Division of the U.S. Department of Justice.

STATEMENT OF CHARLES SAPHOS, CHIEF, NARCOTICS AND DANGEROUS DRUGS SECTION, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. SAPHOS. Good morning, Mr. Chairman and Congressman Shaw. I thank you for inviting me back home here to Broward County and I certainly appreciate as compared to Washington the weather we have down here.

Mr. Chairman, I have prepared a written statement for this committee which I would ask to be made a part of the record of the committee. However, insomuch as the text of that statement is topics which you and I have discussed at length and my staff and your staff has discussed at length, I thought I could briefly divorce myself from that statement and speak of other issues that you raised in your opening statement, sir.

Senator GRAHAM. You can continue to be married to the statement, but still have a very appropriate legal affair extending some other comments.

Mr. SAPHOS. Thank you. Then my matrimony with the statements will stay in tact. However, I will add to it then.

Sir, my statement covers the area of the national and international programs that have been undertaken by the Executive Branch of the Government and the Department of Justice in the area of money laundering. From that statement, sir, I think it is quite clear that investigations and prosecutions of money laundering are no isolated regional matters, but are national and international in scope.

To that end to further those investigations and prosecutions as outlined in the statement the Congress and the Executive Branch of the Government have done certain things in the last years which have significantly enhanced our ability to go after money laundering enterprises.

In particular in the last days of this session the Senate gave its advice and consent to the United Nations Convention against the illicit traffic in narcotic and psychotrophic substances. That Convention significantly will further the international tools addressing money laundering and narcotics trafficking insomuch as in part it specifically requires each country who ratifies that Convention to criminalize narcotics money laundering in that country no matter where the narcotics offense occurred and no matter what the source of the money or where the money is found.

In addition, it requires international cooperation for the tracing and forfeiture of illicit narcotics proceeds again no matter where the narcotics offense occurred in the world.

We believe this is a significant tool against the narcotics trafficker and against the narcotics money launderer and we appreciate the swift action of the Senate in giving its advice and consent on that Convention. We will be the third country in the world to have ratified that Convention and it continues our leadership role within the significant area of international law enforcement.

Domestically from the brief outline of the cases that have been brought to our attention or we have coordinated in the last year it is apparent that money laundering is no longer confined to any particular geographic area and in particular no longer confined to the Southern District of Florida, that money laundering are multistate in nature and multinational in nature and that the investigations that we conduct will have to reflect that character of the money laundering enterprises.

Therefore, we have enlarged our efforts at coordinating and directing multistate and multinational money laundering investigations, and from some of the cases which I have outlined in my prepared testimony we have met with some success. That is not to say that we have this problem licked. In fact, I think we have many great challenges in front of us.

One of the things that we have noted recently is that the money laundering activities are no longer confined to the legitimate financial institutions in this country, but money laundering appear to be occurring in part in other types of business activities which deal in substantial amounts of currency.

We are directing our investigative and prosecutive efforts in the area to examine those other types of enterprises which might vulnerable to the activities of the money launderers.

We have also been working with many foreign countries, particularly the Western countries, who will ultimately be the repository of the profits of the drug traffickers to exchange evidence in a real time manner to allow for the forfeiture of assets which are not found in this country but which may be the product of violations which have occurred in that country.

Right now we have an ongoing effort with the County of Luxembourg which we think will be extremely beneficial in our efforts against certain Colombian traffickers and beneficial to the County of Luxembourg when a forfeiture is ultimately accomplished there.

The issue of State and local cooperation in this area and nationally is a key issue in narcotics law enforcement and prosecution as well as in money laundering enforcement and prosecution. Often this marriage between the Federal forces and the State and local forces appears to be one in which there is a disagree of disharmony from time to time and often there are complaints by our partner in this marriage that our cooperation and our mission is unclear and that we are not being faithful in this marriage.

I believe that at ofttimes this complaint is based upon rumor and innuendo, and in fact our reputation is untarnished and we are as clean as Caesar's wives. In this particular instance in this region I believe that to be true and believe that there has been some degree

of misinformation concerning the commitment of the Federal Government nationally and regionally against money laundering.

In other instances, however, perhaps we are faithless in our commitment to cooperation with State and local authorities and their criticism is beneficial to us and of assistance to us, and we are always willing to listen and we are always willing to address bilaterally with the State and local authorities or with our supervisory agencies and committees on the Hill our commitments in this area and we continue in that pledge.

Last, the area of money laundering being a very popular area of inquiry this year brings to mind, however, a further commitment that we believe that law enforcement must make. The money laundering industry is an enterprise which supports the narcotics traffickers and makes their job easier to do and in fact makes it possible for them to accomplish their multinational criminal conduct.

I believe, as does the Department of Justice, that examining those industries which support the narcotics trafficker and prosecuting violators who make the job of the narcotics trafficker easier should not just be confined to the money laundering industry and that we should be broadening our inquiry to look at other enterprises which are legitimate in aspect, but which support and make possible to conduct of the money laundering enterprise, and that we should bring to bear the same sorts of creative, investigative and prosecutive enterprise that we have shown with money laundering to attack those enterprises.

Among those enterprises that we should be addressing are perhaps the aviation industry whose sales of airplanes make the shipping of drugs all the more possible, perhaps the marine industry and certainly the chemical industry needs examination, and I believe that the same sort of commitment, which regionally has been shown here, to address unlawful narcotics money laundering will be shown by the Federal Government in examining these other industries and the conduct of the persons in those industries which may be criminal.

Thank you, sir, and I'm prepared to answer any questions.

Senator GRAHAM. Thank you very much, Charles.

We will hear from all of the members of panel one and then we'll go to questions.

[The prepared statement of Charles Saphos follows:]

Department of Justice

STATEMENT

OF

CHARLES S. SAPHOS
CHIEF
NARCOTIC AND DANGEROUS DRUG SECTION
CRIMINAL DIVISION

BEFORE

THE

SENATE BANKING COMMITTEE
SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

CONCERNING

MONEY LAUNDERING

DECEMBER 4, 1989

Good morning Mr. Chairman. I am pleased to appear before you this morning to discuss the extremely serious matters of money laundering and international narcotics control and the role played by the Department of Justice.

As Chief of the Narcotic and Dangerous Drug Section at the Department of Justice, it is my job to oversee the prosecution of high-level drug traffickers engaged in the importation, manufacture, shipment, and distribution of illicit narcotics and dangerous drugs; to prosecute those persons whose activities facilitate the drug enterprises, such as money launderers and to seek administrative and judicial forfeiture of instrumentalities of drug trafficking and the illicit proceeds of such activities.

The Narcotics Section at the Department of Justice maintains a litigation staff to prosecute nationwide complex cases against major drug trafficking and money laundering organizations. It also provides legal support, in the form of instructions and advice, to drug enforcement and prosecutorial agencies.

The Section drafts and evaluates proposed drug-related legislation and analyzes and executes the Criminal Division's drug prosecution policies. In addition, we review all drug-related electronic surveillance requests, assist in securing witnesses from foreign jurisdictions, and participate in the training of investigators and prosecutors. The Section maintains offices in Washington, D.C.; Miami, Florida; San Juan, Puerto Rico; and San Antonio, Texas. The field offices are staffed with attorneys whose principal functions include the investigation and prosecution of narcotics money laundering organizations and the training of others to more successfully accomplish the same goals of neutralizing the money laundering organizations.

Unfortunately, it is no great surprise to any of us that the annual gross income from drug sales in this country is now estimated at over $100 billion. Our role at the Department of Justice is to strike at drug traffickers where it hurts most.

Realizing that the principal motivation for drug trafficking is profit, and that it is primarily a cash business, the most vulnerable point for any drug operation is at the doorway to the bank.

The point of highest attraction for drug dealers is also the point of highest vulnerability. To make it difficult, if not impossible, to deal with large amounts of cash, the Department of Justice prosecutes violators with a broad range of criminal statutes.

The Bank Secrecy Act of 1970. This Act provided law enforcement with a valuable tool in the form of three reports:

> The first, called a Currency Transaction Report ("CTR"), is required to be submitted by financial institutions, such as banks, for each deposit, withdrawal, exchange of currency or other payment or transfer which involves a transaction in currency of more than $10,000. For years, launderers

attempted to evade the money trail created by this reporting requirement by using a technique called structuring or "smurfing". Structuring works as follows: launderers divide large amounts of cash into smaller portions and deposit the latter into separate accounts in amounts of less than $10,000, or into the same account on different business days. The Anti-Drug Abuse Act of 1986 modified the law to make it clear that smurfing was a felony.

The second report, known as the Currency and Monetary Instruments Report, requires that all persons who transport, mail, ship, or cause to be transported, mailed or shipped from or to the United States, currency or other bearer instruments, in amounts in excess of $10,000, must report the

transaction to U.S. Customs. The requirement to file such a report is highlighted on the Customs Declaration form which advises travelers that they are required to indicate whether or not they are carrying in excess of $10,000.

The third report requires every person who is required to file a United States Federal income tax form to also file a report if he or she owns or has any interest or signature authority over financial accounts in foreign countries, if the aggregate value of the account exceeds $10,000 at any time during the calendar year.

The intent of Congress in enacting the Bank Secrecy Act was to provide laws designed to enhance government efforts to disrupt criminal organizations by establishing either:

1) an audit trail for income generated from illegal activities; or

2) a violation of U.S. law by persons, groups, or institutions who fail to comply with the reporting provisions of the Act.

The almost universal compliance with these reporting requirements by legitimate banks has made the task of the money launderers and drug barons much more difficult and expensive.

The Bank Secrecy Act led the way for enactment of the money laundering provisions of the Anti-Drug Abuse Act of 1986. For the first time Congress criminalized the very act of money laundering. Each discrete financial transaction became a separate crime. In 1988, the law was amended to permit so-called "sting" operations against money launderers. The statutes allow for and improve forfeiture provisions for money laundering.

Armed with these tools, we have launched a coordinated prosecutive effort, relying on the IRS for financial training and experience; DEA, as the leading drug enforcement agency; the Customs Service for its border and financial analysis and targeting expertise; and the FBI, as a major resource of manpower experienced in complex investigations.

Complex money laundering investigations and prosecutions require cooperative effort. We have experienced that type of cooperation and with the help of law enforcement agencies we have become united in a well-integrated front against drug trafficking.

The Department of Justice has a critical role to play. Our efforts against money laundering are not confined to narcotics activities. Although our attention is focused in the drug trafficking area, our money laundering initiatives also serve to facilitate the prosecution of white collar crime, organized crime and terrorism where similar patterns of money laundering activity occur. We have established national policies and priorities to

emphasize the importance of attacking money laundering enterprises in all areas of serious criminal activity. The Department has also initiated comprehensive training programs for prosecutors and investigators to assure that the statutory tools given to us by Congress are effectively utilized throughout the country. In addition, the Narcotics Section of the Criminal Division facilitates the coordination of some of these nationwide multi-district investigations. Finally, we assign prosecutors to the field to build and prosecute cases that might not have been initiated.

For example, Operation Greenback was initiated in Miami, Florida in June 1980. This is a joint operation involving the Internal Revenue Service, the U.S. Attorney's Office, and the U.S. Customs Service. During its first 2 1/2 years, the program resulted in indictments against 147 individuals from 38 narcotics and money laundering organizations. Over one hundred persons were arrested and over $30 million in U.S. currency was seized and forfeited. In addition, physical property in excess of $2

million was seized, with civil penalties in excess of $33 million. Jeopardy tax assessments of over $112 million were levied. Operation Greenback's focus is on the flow of proceeds involved in narcotics trafficking rather than the flow of the narcotics. The targets selected are those financial institutions, organizations and individuals who are involved in sophisticated money laundering.

Operation Greenback served as a national resource to experiment in the investigation and prosecution of Colombian cocaine profits. As a consequence of its success, a second Operation Greenback was initiated in San Juan, Puerto Rico in 1983. More recently, a financial crimes task force, Operation Buckaroo, is getting off the ground in San Antonio to examine Mexican money laundering operations. At the same time that suspicious transactions were being reported by the Bank of America and Wells Fargo Bank, Customs using the Treasury financial data base was identifying and tracking the suspicious activity. DEA, FBI, IRS and Customs were able to follow the

"flow" of funds from BSA, 8300 reports and electronic surveillance to undercover a billion dollar money laundering ring with direct links to the Medellin cartel.

Operation Polar Cap is another example of using the vulnerability of money laundering operations to develop evidence against the underlying drug organizations. This case involved money launderers who disguised boxes of drug money as shipments of jewelry, moved the cash interstate, and then out of the country to foreign banks. Polar Cap was the largest money-laundering investigation ever launched by the Justice Department. In all, 111 persons have been arrested, with seizures including $105.8 million, over 10 tons of marijuana and one-half ton of cocaine. There is a civil suit pending to repatriate to the United States over $400 million transferred to foreign banks in the course of the criminal activities.

Another recent case demonstrates coordination among several judicial districts across the United States. Operation Cashweb was a three-year undercover investigation, and the forerunner of

many subsequent and pending drug money laundering cases. In that case, FBI undercover agents penetrated the highest levels of three money laundering operations as an entree to a like number of major Colombian drug trafficking organizations. Incriminating evidence was gained and probable cause was secured to initiate 14 court-authorized wiretaps over an eight-month period in nine major U.S. cities. The undercover investigative work combined with the electronic surveillance helped dismantle three significant trafficking organizations and the laundering operations that supported them. One hundred thirty-seven indictments resulted and ninety-eight individuals have been convicted.

All of this, no matter how well it goes, is not enough because the traffic in drugs and laundering in money moves in a matter of minutes from country to country. The day arrived long ago when we realized that the countries of the world have to improve the ways of thwarting and stamping out this menace. Important among these efforts is the need for greater

international cooperation. We have had a long history of cooperation with law enforcement agencies, worldwide, in the exchange of information and intelligence. We have to build on that effort to render prosecutions more effective. One example of international law enforcement cooperation that has focused on drug trafficking is INTERPOL.

The Department of Justice houses the United States central bureau for the International Criminal Police Organization. INTERPOL, an association of police from nearly 150 countries, seeks to assure the widest possible mutual assistance among criminal police authorities to the fullest extent permitted by the laws of the participating countries. INTERPOL utilizes the resources and authority of police within the member countries to pursue criminal investigative leads and to coordinate the transmission of information.

INTERPOL has no police force of its own but offers operational services to the police of the member countries. For example, one of INTERPOL's most effective services is the

INTERPOL system of notices. These notices, color-coded for easy recognition, are circulated to all the member counties to advise authorities about persons or property of criminal interest. Perhaps the most widely utilized and most publicly recognized is the Red Notice, also called an International Wanted Notice. Red notices request the provisional arrest of a subject with a view toward extradition.

Just recently, INTERPOL requested the issuance of Red Notices on 12 Colombians designated by the Attorney General as significant leaders in the Colombian drug trade. Should any of these 12 individuals be located in any country, those countries are on notice that the individuals are subject to arrest and possible extradition to the United States.

As a natural supplement to INTERPOL's primary role of exchanging police information, the organization has broadened its services to the international police community in recent years by making use of the strategic criminal intelligence it accumulates from around the world.

A drug subdivision of INTERPOL focusing on money laundering FOPAC, a French acronym for the French name "Funds from Criminal Activities", serves as an umbrella for identifying, tracing, and seizing the assets of illegal activity. It monitors investigations involving the movement of funds associated with international criminal activity. Since its formation in 1983, FOPAC has compiled a financial assets encyclopedia outlining the different laws and regulations of the member countries that would permit access to financial data and seizure of assets of unlawful origin. INTERPOL is examining ways to facilitate the exchange of information concerning money and currency flow. Last week, I attended the 58th General Assembly of INTERPOL in Lyons, France, where this topic was central to the discussion. On the one hand, a vehicle for quickly identifying and contacting foreign authorities with access to financial information would be valuable. This must be tempered, however, by a requirement that assures that information in our possession would be used only for

legitimate law enforcement purposes. This discussion will continue within INTERPOL.

Exchange of information and intelligence is not enough, however. We need evidence from abroad that will be admissible in the United States for conduct that occurs here and in foreign countries. In particular, evidence of covert foreign financial transactions can be instrumental in persuading a court and jury of the magnitude of criminal conduct and also serves to secure the seizure and forfeiture of assets, worldwide.

In order to improve the ways in which countries can coordinate their prosecutions, we have concentrated on three areas.

First, countries have to enact domestic laws that will render prosecutions more effective in their countries and will enable them to share evidence with the United States and other countries. Simply stated, they must view the problem in a way that reflects the age in which we live.

Second, countries have to become better at dealing with problems on a bilateral basis in prosecuting narcotics cases and money launderers. To render prosecutions more effective, we have recognized the need for modern and updated extradition and mutual legal assistance treaty agreements and have encouraged negotiation of such agreements through the diplomatic process.

Third, countries must lend support to important efforts in international fora on a multilateral basis. They must commit themselves to greater cooperation that will render more effective the law enforcement efforts in crimes such as money laundering. In this regard, commitment is not enough. The countries of the world must follow through with effective action. The United States was pleased to be one of the countries which led discussions in the negotiation of a strong United Nations Convention Against the Illicit Traffic in Narcotics and Psychotropic Substances, signed in Vienna, Austria, December 20, 1988. The signatory nations will commit themselves to enacting legislation making money laundering a crime and to permit the

identification, tracing, freezing and seizing of drug assets as well as the extradition of individuals facing criminal sanctions elsewhere. This treaty has been signed by the United States and was recently approved by the U.S. Senate.

It is apparent from what I have said that access to foreign evidence is a significant key to dismantling multinational drug cartels. We in law enforcement are heartened to see evidence that this has become a key foreign policy issue not only in the United States but in other countries as well. If the U.N. Convention is an accurate indicator, it evidences an enhanced perception among foreign governments of the seriousness of the domestic and international threat of narcotics trafficking.

To assist in these multinational efforts, the United States is actively working with the other nations of the Economic Summit to encourage them, as the banking centers of the world, to address money laundering and to enlist their diplomatic support to encourage nations to enact appropriate legislative and regulatory tools.

The United States Senate recently gave its advice and consent to ratification of six Mutual Legal Assistance Treaties with Mexico, Bahamas, Belgium, Canada, Thailand, and the United Kingdom for the Cayman Islands. These Treaties allow for the exchange of evidence including access to bank account statements. Cooperative actions such as these will facilitate our efforts against money laundering.

In addition, we are actively participating in the Organization of American States' Commission on Narcotic Drugs program of legislative, judicial and prosecutive improvement. Finally, we have initiated negotiations on behalf of the United States, with our law enforcement counterparts in Spain and Italy, hoping that jointly we can address the threat of the cocaine cartels. To date, these efforts have produced significant commitments of assistance to the Andean nations, particularly Colombia, and the initiation of several joint investigative operations.

Thank you for the opportunity to speak to you today. I would be pleased to answer your questions.

Senator GRAHAM. Our second panelist is Mr. Merlin Heye, District Director, Ft. Lauderdale District of the Internal Revenue Service.

STATEMENT OF MERLIN HEYE, DISTRICT DIRECTOR, FT. LAUDERDALE DISTRICT, INTERNATIONAL REVENUE SERVICE

Mr. HEYE. Mr. Chairman and Congressman Shaw, I, too, have a prepared statement that I wish to submit for the record. It's rather lengthy and I have attempted to make a short version of this in the interest of time. So with your permission, I will read the short version.

Thank you for the opportunity to testify here today about the Internal Revenue Service's activities in South Florida with regard to civil and criminal enforcement efforts in the area of narcotics and money laundering.

As District Director I have been responsible for tax administration in South Florida since 1982, first as Director of the Jacksonville District and today as the Director of the Ft. Lauderdale District.

With me today are Dan Dockum, Chief, Criminal Investigation Division, and Michael McDonald, Operation Greenback Group Manager.

Nationwide the Internal Revenue Service has been and continues to be a key participant in attacking illegal narcotics and money laundering organizations. Although our efforts in this regard are principally accomplished through our Criminal Investigation Division, our Examination Division also has significant civil law enforcement responsibilities related to money laundering.

I would first like to describe our enforcement activities under the Bank Secrecy Act and income laws related to narcotics and money laundering conducted by the Criminal Investigation Division and then briefly describe the Examination Division's role.

In 1979 through analysis in treasury of Federal Reserve cash flow figures in South Florida, South Florida was identified as a focal point of apparent narcotics money laundering activity and extensive non-compliance with currency transaction reports, CTR's.

In 1980 Operation Greenback was launched with resources from the Service, from Customs and from the Department of Justice. The Internal Revenue Service assigned one criminal investigation group and within a year a second group was assigned. Operation Greenback was placed under the direction of the U.S. Attorney and his office provided space for all participating personnel.

The Service's efforts dealt with identifying principals, financial institutions and money exchangers for drug trafficking organizations involved in the large cash flow in South Florida. These entities were targeted for failure to file currency transaction reports, and in the early days millions of dollars of cash would be carried to South Florida banks for deposit by money exchangers. Our CTR enforcement efforts had a tremendous impact on the South Florida banks. In large part the South Florida banks quickly began to comply with the CTR filing requirements.

Another principal activity of the Service in Greenback has been our participation with the other agencies, principally United States

Customs, in seizures of large amounts of cash and other assets from narcotics organizations.

As a result of our enforcement efforts people in the money laundering business changed their methods to avoid the CTR reporting requirements of the banks. Money exchangers resorted to using so-called SMURFS to exchange currency in financial institutions keeping individual transactions under the $10,000 CTR threshold. The money laundering control provisions of the 1986 and 1988 Anti- Drug Abuse Acts amending Title 18 and Title 31 gave us the legal tools to deal with these actions.

Ultimately much of the Service's efforts changed from the enforcement of CTR requirements in South Florida financial institutions to efforts that identify nationwide money laundering organization networks.

These networks usually have a Miami connection regardless of where they are located, and this type of enforcement requires a long-term development of cases and extensive use of undercover agents and informants. Many of the seizures and prosecutions made by offices in other areas of the country result from Greenback investigative leads.

Also this year to help us with our local efforts in surveillance, searches, seizures and arrests the Service secured the assistance of seven Metro Dade police officers to work with our special agents in Greenback.

In non-operation Greenback efforts the IRS's efforts in Greenback are just a part of the District's total criminal investigation activity in drug related cases. Narcotics related cases dealing with unreported profits for income tax purposes are invested outside of Operation Greenback by our special agents also.

Many of these cases, particularly those developed by grand jury, have one or more other agencies working with our agents under the general direction of the U.S. Attorney.

Before leaving my discussion of our criminal investigation activities I would like to discuss our reorganization of Greenback in June of 1989. Giving the changing nature of our Greenback work and the need to address other priority cases, I authorized the transfer of a manager and six agents from Greenback to other priority work, including other narcotics cases, investigations of banks and organized crime.

However, as I previously stated, we also acquired the services of seven Metro Dade police officers to complement our remaining 10 special agents in Greenback. Our total special agents staffing in South Florida has remained at approximately 100 agents since I became Director. Our percentage of time devoted to narcotics related cases has averaged between 60 and 70 percent of total time. Nearly 70 percent of our prosecution cases involve narcotics and money laundering.

I would now like to briefly describe our Examination Division's activities in enforcing the Bank Secrecy Act. During fiscal year 1989 agents conducted 66 compliance checks of various financial institutions other than banks to determine whether or not they were properly filing CTRs. Approximately 950 leads were developed on taxpayers who potentially unreported their income.

Examination Division agents are also developing information from records seized from an international bank as a result of Operation Sea Chase led by Customs. We are investigating whether or not the bank officers and several hundred branches of this bank throughout the world have helped clients use the bank to violate money laundering statutes or evade taxes on United States sourced income. The transactions involving these clients are being identified in part by the wire transfer records of the bank.

Finally, I would like to comment on the Service's relationship with the banking community. An excellent recent example of the cooperation we receive from banks includes several suspicious activity reports filed with us by a major South Florida bank. These reports led to an investigation and ultimate indictment of five individuals who were laundering drug proceeds through more than 80 bank accounts at the bank.

We commend the Florida Bankers Association for its cooperation to enhance the Bank Secrecy Act awareness and compliance among its members.

This concludes my formal remarks, and my colleagues and I welcome the opportunity to answer any questions you may have.

Senator GRAHAM. Thank you, Merlin.

[The prepared statement of Merlin Heye follows:]

Statement of

Merlin W. Heye
District Director

Internal Revenue Service

Ft. Lauderdale District

Before the

Senate Banking Committee

---

on

Money Laundering

December 4, 1989

26-536 0 - 90 - 2

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TESTIMONY OF MERLIN W. HEYE
DISTRICT DIRECTOR, INTERNAL REVENUE SERVICE
FT. LAUDERDALE DISTRICT
BEFORE THE
SENATE BANKING COMMITTEE
DECEMBER 4, 1989

THANK YOU FOR THE OPPORTUNITY TO TESTIFY HERE TODAY ABOUT THE INTERNAL REVENUE SERVICE'S ACTIVITIES IN SOUTH FLORIDA WITH REGARD TO CIVIL AND CRIMINAL ENFORCEMENT EFFORTS IN THE AREA OF NARCOTICS AND MONEY LAUNDERING.

AS DISTRICT DIRECTOR, I HAVE BEEN RESPONSIBLE FOR TAX ADMINISTRATION IN SOUTH FLORIDA SINCE 1982, SERVING AS DIRECTOR FOR ALL OF THE STATE UNTIL 1986, WHEN THE FT. LAUDERDALE DISTRICT WAS CREATED. THE FT. LAUDERDALE DISTRICT ENCOMPASSES THE EIGHTEEN SOUTHERN MOST COUNTIES IN THE STATE OF FLORIDA.

WITH ME TODAY ARE DANIEL M. DOCKUM, CHIEF, CRIMINAL INVESTIGATION IN THE FT. LAUDERDALE DISTRICT AND MICHAEL R. McDONALD, "OPERATION GREENBACK" GROUP MANAGER IN THE CRIMINAL INVESTIGATION DIVISION. THEY WILL ASSIST ME IN RESPONDING TO QUESTIONS YOU MAY HAVE.

INTRODUCTION

NATIONWIDE, THE INTERNAL REVENUE SERVICE HAS BEEN AND CONTINUES TO BE A KEY PARTICIPANT IN ATTACKING ILLEGAL NARCOTICS AND MONEY LAUNDERING ORGANIZATIONS. ALTHOUGH OUR EFFORTS IN THIS REGARD ARE

PRINCIPALLY ACCOMPLISHED THROUGH OUR CRIMINAL INVESTIGATION DIVISION, OUR EXAMINATION DIVISION HAS SIGNIFICANT CIVIL LAW ENFORCEMENT RESPONSIBILITIES RELATING TO MONEY LAUNDERING.

IN ADDITION TO THE ENFORCEMENT OF THE INTERNAL REVENUE CODE (TITLE 26) AND RELATED CRIMINAL STATUTES, THE CRIMINAL INVESTIGATION DIVISION HAS BEEN DELEGATED EXCLUSIVE JURISDICTION FOR ALL CRIMINAL INVESTIGATIONS UNDER THE BANK SECRECY ACT (TITLE 31) OF ALL FINANCIAL INSTITUTIONS AND THEIR CUSTOMERS. IT ALSO HAS INVESTIGATORY JURISDICTION FOR MONEY LAUNDERING CASES RELATED TO TAX INVESTIGATIONS OR REPORTING VIOLATIONS.

THE EXAMINATION DIVISION IS RESPONSIBLE FOR CIVIL EXAMINATIONS OF TAX RETURNS UNDER THE INTERNAL REVENUE CODE, IT IS RESPONSIBLE FOR COMPLIANCE REVIEW OF ALL FINANCIAL INSTITUTIONS SUBJECT TO THE BANK SECRECY ACT, OTHER THAN BANKS AND SECURITY BROKERS AND DEALERS REGULATED BY THE SECURITIES AND EXCHANGE COMMISSION -- FOR INSTANCE, WE ARE RESPONSIBLE FOR COMPLIANCE REVIEWS OF TRANSMITTERS OF FUNDS, CHECK CASHERS, AND FOREIGN EXCHANGE DEALERS.

BECAUSE OF SOUTH FLORIDA'S STRATEGIC LOCATION FOR THE FLOW OF ILLEGAL DRUGS AND MONEY LAUNDERING, THE SERVICE HAS MAINTAINED ADDITIONAL STAFFING IN THIS AREA TO SUPPORT OUR ENFORCEMENT ACTIVITIES.

I WOULD LIKE TO FIRST DESCRIBE OUR ENFORCEMENT ACTIVITIES RELATED TO NARCOTICS AND MONEY LAUNDERING CONDUCTED BY THE CRIMINAL INVESTIGATION DIVISION, FROM AN HISTORICAL PERSPECTIVE, AND THEN BRIEFLY DESCRIBE THE EXAMINATION DIVISION'S ROLE.

CRIMINAL INVESTIGATION DIVISION

HISTORICALLY, CRIMINAL DIVISION SPECIAL AGENTS IN SOUTH FLORIDA HAVE DEALT ON A CASE-BY-CASE BASIS WITH MONEY LAUNDERING ACTIVITIES RELATED TO INCOME TAX EVASION BECAUSE OF OUR CLOSE GEOGRAPHIC PROXIMITY TO SO-CALLED TAX-HAVEN COUNTRIES HAVING STRICT BANK SECRECY LAWS, SO THAT WHEN ORGANIZED MONEY LAUNDERING RELATED TO NARCOTICS TRAFFICKING BECAME PREVALENT IN THE 1970'S, WE HAD A NUCLEUS OF SKILLED SPECIAL AGENTS WITH EXPERIENCE IN INVESTIGATING MONEY LAUNDERING SCHEMES.

OPERATION GREENBACK

OUR ORGANIZED EFFORTS TO DEAL WITH NARCOTICS-RELATED MONEY LAUNDERING, IN COOPERATION WITH OTHER FEDERAL AGENCIES, BEGAN IN 1979 WHEN OPERATION GREENBACK WAS CONCEIVED.

THROUGH EXTENSIVE ANALYSIS IN TREASURY OF FEDERAL RESERVE CASH FLOW FIGURES, CURRENCY TRANSACTION REPORTS, FORM 4789, (CTR'S), AND CURRENCY OR MONETARY INSTRUMENTS REPORTS, FORM 4790, (CMIR'S), SOUTH FLORIDA WAS IDENTIFIED AS THE FOCAL POINT OF APPARENT NARCOTICS MONEY LAUNDERING ACTIVITY. THIS ANALYSIS ALSO CLEARLY

REFLECTED BROAD NONCOMPLIANCE WITH THE REPORTING REQUIREMENTS OF THE BANK SECRECY ACT BY THE BANKING INDUSTRY. THE FLORIDA BRANCHES OF THE FEDERAL RESERVE HAD A CURRENCY SURPLUS OF MORE THAN $5.7 BILLION. IN ADDITION, LESS THAN 130,000 CTR'S HAD BEEN FILED NATIONWIDE, MOST OF WHICH WERE INCOMPLETE.

IN JANUARY, 1980 OPERATION GREENBACK WAS LAUNCHED WITH RESOURCES FROM IRS, U.S. CUSTOMS AND THE DEPARTMENT OF JUSTICE. THE INTERNAL REVENUE SERVICE ASSIGNED ONE CRIMINAL INVESTIGATION GROUP CONSISTING OF 12 SPECIAL AGENTS, A GROUP MANAGER AND VARIOUS SUPPORT PERSONNEL. THE INVESTIGATIONS IN OPERATION GREENBACK EXPANDED RAPIDLY. WITHIN A YEAR A SECOND GROUP OF IRS CRIMINAL INVESTIGATORS WAS ASSIGNED.

SINCE OPERATION GREENBACK WAS PLACED UNDER THE DIRECTION OF THE U.S. ATTORNEY, HIS OFFICE PROVIDED SPACE FOR ALL PARTICIPATING PERSONNEL.

THE SERVICE'S ENFORCEMENT EFFORTS DEALT WITH IDENTIFYING PRINCIPALS, FINANCIAL INSTITUTIONS AND MONEY EXCHANGERS FOR DRUG TRAFFICKING ORGANIZATIONS INVOLVED IN THE LARGE CASH FLOW IN SOUTH FLORIDA. THESE ENTITIES WERE TARGETED FOR FAILURE TO FILE CURRENCY TRANSACTION REPORTS, FORM 4789, IN CONNECTION WITH LARGE CASH TRANSACTIONS. MONEY EXCHANGERS WERE NECESSARY IN THE CASH FLOW PROCESS. THE EXCHANGERS FACILITATE LAUNDERING CASH FOR INVESTMENT IN THE U.S. AND ABROAD, AS WELL AS REPATRIATING FUNDS THAT

REPRESENTED NARCOTICS SUPPLIERS' COST-OF-GOODS SOLD. IN THE EARLY DAYS, MILLIONS OF DOLLARS IN CASH WOULD BE CARRIED TO SOUTH FLORIDA BANKS FOR DEPOSIT BY MONEY EXCHANGERS.

OUR CTR ENFORCEMENT EFFORTS HAD A TREMENDOUS IMPACT ON SOUTH FLORIDA FINANCIAL INSTITUTIONS.

IN ONE INSTANCE, A BANK AND THREE BANK OFFICERS PLED GUILTY TO TITLE 31 RELATED CRIMINAL VIOLATIONS. THE INDIVIDUALS ALL RECEIVED PRISON SENTENCES AND THE BANK WAS FINED $375,000. THREE MAJOR NARCOTICS ORGANIZATIONS WERE IDENTIFIED AS A RESULT OF THIS ONE INVESTIGATION.

IN LARGE PART THE SOUTH FLORIDA BANKS QUICKLY BEGAN COMPLYING WITH THE CTR FILING REQUIREMENTS AND HAVE BECOME VERY HELPFUL TO US IN OUR CONTINUING EFFORTS TO IDENTIFY MONEY LAUNDERERS.

ONE OTHER PRINCIPAL ACTIVITY OF THE SERVICE IN OPERATION GREENBACK HAS BEEN OUR PARTICIPATION WITH THE OTHER AGENCIES (PRINCIPALLY U.S. CUSTOMS) IN EXECUTING SEARCHES INVOLVING NARCOTICS ORGANIZATIONS AND SEIZURES OF LARGE AMOUNTS OF CASH, ILLEGAL DRUGS, AND OTHER ASSETS.

MOST OF THE INVESTIGATIONS IN THE EARLY YEARS HAD BOTH DOMESTIC (IRS) AND INTERNATIONAL (U.S. CUSTOMS) TRANSACTIONS. THEREFORE,

THE CASES WERE DEVELOPED JOINTLY AND PERIODICALLY REVIEWED TO DECIDE WHICH AGENCY SHOULD ASSUME JURISDICTION AS THE CASE DEVELOPED.

IN ONE SUCH INSTANCE IN 1983, OPERATION GREENBACK AGENTS STOPPED A SOUTH FLORIDA CERTIFIED PUBLIC ACCOUNTANT AT THE FT. LAUDERDALE INTERNATIONAL AIRPORT AS HIS LEAR JET WAS PREPARING TO LEAVE THE COUNTRY. A SEARCH OF THE PLANE REVEALED $5.4 MILLION IN U.S. CURRENCY. THE CPA ADMITTED THAT AS A MONEY EXCHANGER AND COURIER, HE HAD LAUNDERED OVER $1 BILLION.

FOLLOWING THE CPA's ARREST, AND WITH HIS COOPERATION, HIS CLIENTS' ACCOUNTS WERE OBTAINED BY OUR EXAMINATION DIVISION. APPROXIMATELY 700 CLIENTS WERE EXAMINED, RESULTING IN PROPOSED TAX DEFICIENCIES OF <u>OVER $94 MILLION</u> AND NINETEEN (19) CRIMINAL REFERRALS AND PROSECUTIONS FOR TAX FRAUD. NUMEROUS METHODS OF LAUNDERING MONEY WERE UNCOVERED, INCLUDING THE EXTENSIVE USE OF PANAMANIAN AND NETHERLANDS ANTILLES CORPORATIONS AND THE USE OF WIRE TRANSFERS OF BANK ACCOUNT FUNDS BACK TO THE U.S. FROM FOREIGN COUNTRIES.

AS A RESULT OF OUR ENFORCEMENT EFFORTS IN OPERATION GREENBACK, THE MONEY EXCHANGERS AND OTHERS IN THE MONEY LAUNDERING BUSINESS CHANGED THEIR METHODS OF EVADING THE CTR REPORTING REQUIREMENTS OF THE BANKS.

MONEY EXCHANGERS RESORTED TO USING OR "SMURFS" TO EXCHANGE CURRENCY IN FINANCIAL INSTITUTIONS, KEEPING INDIVIDUAL TRANSACTIONS UNDER THE $10,000 CTR THRESHOLD. CRIMINAL SANCTIONS AND PENALTIES IMPOSED BY TITLE 31 WERE DIRECTED ONLY AT THE FINANCIAL INSTITUTIONS AND NOT THE PERSONS LAUNDERING THE MONEY. THESE PROBLEMS WERE CORRECTED BY THE MONEY LAUNDERING CONTROL PROVISIONS OF THE 1986 AND 1988 ANTI-DRUG ABUSE ACTS AMENDING TITLES 31 AND 18.

MONEY-LAUNDERERS ALSO BECAME MORE SOPHISTICATED AND RESORTED TO MOVING DRUG PROCEEDS THROUGH LEGITIMATE BUSINESS FRONTS, THROUGH MORE CLEVER MEANS OF PHYSICAL TRANSPORT, OR THROUGH MEANS SUCH AS USE OF WIRE TRANSFERS. SOME OF THE OPERATION GREENBACK ENFORCEMENT TECHNIQUES BECAME LESS EFFECTIVE WITH THESE CHANGES BY MONEY-LAUNDERERS.

ULTIMATELY, MUCH OF THE SERVICE'S EFFORTS IN OPERATION GREENBACK CHANGED FROM THE ENFORCEMENT OF CTR REQUIREMENTS BY SOUTH FLORIDA FINANCIAL INSTITUTIONS TO EFFORTS AT IDENTIFYING NATIONWIDE MONEY-LAUNDERING ORGANIZATION NETWORKS. THESE NETWORKS USUALLY HAVE A MIAMI CONNECTION, REGARDLESS OF WHERE THEY SPREAD TO IN THIS COUNTRY. THIS TYPE OF ENFORCEMENT REQUIRES A LONG-TERM DEVELOPMENT OF CASES AND EXTENSIVE USE OF UNDERCOVER AGENTS AND INFORMANTS.

AS WAS THE CASE WHEN OPERATION GREENBACK BEGAN, WE STILL HAVE AN OBJECTIVE TO CAUSE THE SEIZURE OF THE ILLEGAL DRUG COSTS-OF-GOODS SOLD CASH AND ANY OTHER ASSETS WE CAN IDENTIFY THAT HAVE AN ILLICIT

DRUG CONNECTION. OF COURSE, WE ALSO PROSECUTE INDIVIDUALS FOR VIOLATIONS OF CRIMINAL STATUTES AS WARRANTED.

MANY OF THE SEIZURES AND PROSECUTIONS MADE BY OUR OFFICES IN OTHER AREAS OF THE COUNTRY RESULT FROM OPERATION GREENBACK INVESTIGATIVE LEADS.

RECOGNIZING THAT OUR FINANCIAL INVESTIGATIVE SKILLS IN OPERATION GREENBACK COULD BE VERY WELL COMPLEMENTED BY LOCAL POLICE SKILLS FOR THOSE INSTANCES WHEN SURVEILLANCE, CONSENT SEARCHES, ASSET SEIZURES, AND ARRESTS ARE APPROPRIATE, THE SERVICE SECURED THE ASSISTANCE OF SEVEN METRO/DADE PLAIN CLOTHES POLICE OFFICERS TO WORK WITH, AND UNDER THE DIRECTION OF, OUR SPECIAL AGENTS IN GREENBACK. THIS COOPERATIVE EFFORT BEGAN IN EARLY 1989, AND WE THINK IT WILL CONTINUE TO BE SUCCESSFUL. WE ALSO FEEL THAT THE METRO/DADE POLICE DEPARTMENT WILL BE WELL SERVED IN THAT THEY ARE CARRYING OUT ONE OF THEIR MISSIONS OF COMBATTING DRUG-RELATED CRIME. WE ANTICIPATE THAT THEY WILL ULTIMATELY SHARE IN THE RECEIPT OF SEIZED CURRENCY AND ASSETS.

NON-OPERATION GREENBACK EFFORTS

THE IRS' EFFORTS IN OPERATION GREENBACK HAVE BEEN JUST A PART OF THE DISTRICT'S TOTAL CRIMINAL INVESTIGATION ACTIVITY IN DRUG-RELATED FINANCIAL CASES.

9

NARCOTICS-RELATED CASES DEALING WITH UNREPORTED PROFITS FOR INCOME TAX PURPOSES ARE INVESTIGATED OUTSIDE OPERATION GREENBACK BY OUR SPECIAL AGENTS. MANY OF THESE CASES, PARTICULARLY THOSE DEVELOPED BY GRAND JURIES, HAVE ONE OR MORE OTHER AGENCIES WORKING WITH OUR AGENTS UNDER THE GENERAL DIRECTION OF THE UNITED STATES ATTORNEY.

THESE CASES OFTEN DEAL NOT ONLY WITH INCOME TAX VIOLATIONS, BUT INVOLVE MONEY-LAUNDERING ISSUES, AND CTR VIOLATIONS. ALTHOUGH THESE CASES MAY BE SIMILAR TO THOSE WORKED IN OPERATION GREENBACK, THEY ARE USUALLY WORKED IN SOUTH FLORIDA LOCATIONS OTHER THAN MIAMI AND INVOLVE OTHER AGENCIES AND GRAND JURIES NOT A PART OF OPERATION GREENBACK.

THESE CASES, AS WELL AS THE OPERATION GREENBACK CASES, FALL UNDER THE UMBRELLA OF THE FLORIDA/CARIBBEAN ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF).

OUR TOTAL SPECIAL AGENT STAFFING IN SOUTH FLORIDA HAS REMAINED RATHER CONSTANT AT APPROXIMATELY 100 AGENTS SINCE I BECAME DIRECTOR IN 1982. THROUGHOUT THESE YEARS OUR PERCENTAGE OF TIME DEVOTED TO NARCOTICS-RELATED CASES, INCLUDING GREENBACK, HAS AVERAGED IN THE 60-70% RANGE. IN FISCAL YEAR 1989, WE DEVOTED 63% OF OUR DIRECT SPECIAL AGENT TIME TO NARCOTICS INVESTIGATIONS. NEARLY 70% OF OUR PROSECUTION CASES INVOLVED NARCOTICS AND MONEY LAUNDERING. (SEE ATTACHMENTS 1 THROUGH 5 FOR ADDITIONAL STATISTICAL INFORMATION.)

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OPERATION GREENBACK REORGANIZATION

BEFORE LEAVING MY DISCUSSION OF OUR CRIMINAL INVESTIGATION ACTIVITIES, I WOULD LIKE TO TAKE THIS OPPORTUNITY TO CORRECT SOME MISPERCEPTIONS THAT HAVE ARISEN OUT OF THE SERVICE'S REORGANIZATION IN OPERATION GREENBACK IN JUNE, 1989.

GIVEN THE CHANGING NATURE OF OUR OPERATION GREENBACK WORK, AND THE NEED TO ADDRESS OTHER CRIMINAL INVESTIGATION DIVISION PRIORITY PROGRAMS (INCLUDING OTHER NARCOTICS CASES) I AUTHORIZED THE TRANSFER OF SIX SPECIAL AGENTS, A GROUP MANAGER, AND SUPPORT STAFF FROM OPERATION GREENBACK TO OTHER PRIORITY WORK.

HOWEVER, AS I PREVIOUSLY STATED, WE ALSO ACQUIRED THE SERVICES OF SEVEN METRO/DADE POLICE OFFICERS TO COMPLEMENT OUR REMAINING 10 SPECIAL AGENTS IN OPERATION GREENBACK.

THE DECISION TO REORGANIZE OUR OPERATION GREENBACK ORGANIZATION ADHERED TO SOUND FISCAL AND MANAGERIAL PRINCIPLES, AND I BELIEVE IT WILL HAVE LITTLE IMPACT ON THE EFFECTIVENESS OF OPERATION GREENBACK.

EXAMINATION DIVISION

I WOULD ALSO LIKE TO BRIEFLY DESCRIBE OUR EXAMINATION DIVISION'S CURRENT ACTIVITIES IN NARCOTICS RELATED CASES. DURING FISCAL YEAR 1989, AGENTS CONDUCTED SIXTY-SIX COMPLIANCE CHECKS OF VARIOUS BUSINESSES TO DETERMINE WHETHER OR NOT THESE COMPANIES WERE

PROPERLY FILING CTR's ON CASH TRANSACTIONS. ONE BUSINESS WAS A CURRENCY EXCHANGE, 26 FIRMS WERE CHECK CASHERS, FOUR WERE TRANSMITTERS-OF-FUNDS ABROAD, AND 35 WERE TELEGRAPH COMPANIES. THE COMPLIANCE CHECKS RESULTED IN TWO CASES BEING FORWARDED TO THE TREASURY DEPARTMENT FOR POSSIBLE SANCTIONS. APPROXIMATELY 950 LEADS WERE DEVELOPED ON TAXPAYERS WHO POTENTIALLY UNDERREPORTED THEIR INCOME, BASED ON REPEATED CASH TRANSACTIONS WITH THESE ORGANIZATIONS. DURING A COMPLIANCE CHECK OF A CHECK CASHING STORE, WE DISCOVERED APPROXIMATELY 900 INDIVIDUALS WHO APPEARED TO HAVE STRUCTURED TRANSACTIONS TO AVOID THE CTR FILING REQUIREMENTS.

EXAMINATION DIVISION AGENTS ARE ALSO CURRENTLY DEVELOPING INFORMATION FROM RECORDS SEIZED IN SOUTH FLORIDA FROM AN INTERNATIONAL BANK. WE ARE INVESTIGATING WHETHER BANK OFFICERS AND OTHERS IN SEVERAL HUNDRED BRANCHES OF THIS BANK THROUGHOUT THE WORLD HAVE ACCOMMODATED CLIENTS WHO USED THE BANK TO VIOLATE MONEY LAUNDERING STATUTES OR EVADE TAXES ON U.S. SOURCED INCOME. THE TRANSACTIONS INVOLVING THESE CLIENTS ARE BEING IDENTIFIED IN PART BY THE WIRE TRANSFER RECORDS OF THE BANK.

THE CIVIL AND CRIMINAL COMPLIANCE FUNCTIONS WITHIN THE INTERNAL REVENUE SERVICE MAKE EXTENSIVE USE OF THE FILINGS UNDER THE BANK SECRECY ACT. IN AUGUST 1989 ALONE (THE LATEST PERIOD FOR WHICH WE HAVE DATA), THE CURRENCY AND BANKING RETRIEVAL SYSTEM MAINTAINED BY OUR DETROIT COMPUTING CENTER RECEIVED MORE THAN 50,000 QUERIES OF CTR AND OTHER FINANCIAL REPORTS BY OUR EXAMINATION, COLLECTION,

AND CRIMINAL INVESTIGATION FUNCTIONS. MORE THAN 1,600 OF THESE QUERIES WERE MADE FROM THE TWO FLORIDA DISTRICTS, JACKSONVILLE AND FT. LAUDERDALE.

COOPERATION OF THE BANKING COMMUNITY

FINALLY, I WOULD LIKE TO COMMENT ON THE SERVICE'S RELATIONSHIP WITH THE BANKING COMMUNITY.

BECAUSE OF OUR EXPERIENCE IN DEALING WITH MONEY LAUNDERING ENFORCEMENT, OUR SPECIAL AGENTS PROVIDE TECHNICAL ASSISTANCE TO THE FINANCIAL COMMUNITY ASSISTING IN TRAINING, IDENTIFYING CORRUPTIVE SCHEMES AND SUSPICIOUS MONEY LAUNDERING EFFORTS, AND DEALING WITH TECHNICAL ISSUES.

WE HAVE PROVIDED INSTRUCTORS FOR INTERNATIONAL SYMPOSIUMS HOSTED BY SUCH INSTITUTIONS AS TUFTS UNIVERSITY AND THE UNIVERSITY OF MIAMI. ONE OF OUR MANAGERS HAS INSTRUCTED AT THE AMERICAN BANKERS ASSOCIATION GRADUATE COMPLIANCE SCHOOL AT THE UNIVERSITY OF OKLAHOMA FOR THE PAST FIVE YEARS. WE ALSO FIELD REQUESTS WEEKLY FROM STATE BANKING GROUPS SUCH AS THE FLORIDA BANKER'S ASSOCIATION AND THE INTERNATIONAL BANKERS ASSOCIATION, LARGE AND SMALL BANKS, AND CIVIC GROUPS TO PROVIDE SPEAKERS AND TRAINING ON THE SUBJECT OF MONEY LAUNDERING. THE SERVICE ATTEMPTS TO RESPOND TO ALL SUCH REQUESTS. WE HAVE SEEN A TREMENDOUS INCREASE IN COMPLIANCE EFFORTS BY THE BANKS AND IN THE OVERALL PUBLIC AWARENESS OF THE SERIOUSNESS OF ILLEGAL MONEY LAUNDERING.

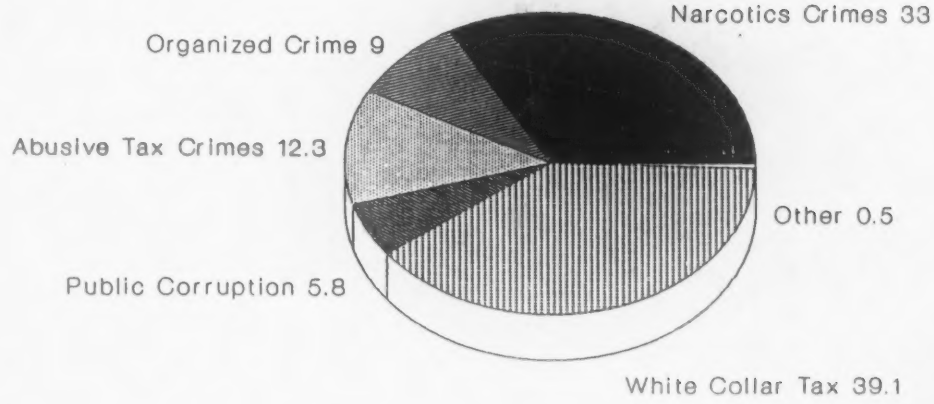
AN EXCELLENT RECENT EXAMPLE OF THE COOPERATION WE RECEIVE FROM BANKS INCLUDES SEVERAL SUSPICIOUS ACTIVITY REPORTS FILED WITH US BY A MAJOR SOUTH FLORIDA BANK. THESE REPORTS LED TO AN INVESTIGATION AND THE ULTIMATE INDICTMENT OF FIVE INDIVIDUALS WHO WERE LAUNDERING DRUG PROCEEDS THROUGH MORE THAN EIGHTY (80) BANK ACCOUNTS AT THE BANK.

ANOTHER EXAMPLE IS THE FILING OF SUSPICIOUS CURRENCY TRANSACTION REPORTS BY A WEST PALM BEACH BANK ON INDIVIDUALS ATTEMPTING TO AVOID THE FILING OF CTR's. OUR INVESTIGATION, WHICH INCLUDED EXTENSIVE SURVEILLANCE, LED TO THE EXECUTION OF ARREST AND SEARCH AND SEIZURE WARRANTS. SEVERAL AIRCRAFT AND VEHICLES WERE SEIZED AS WELL AS APPROXIMATELY $400,000 IN CURRENCY.

WE COMMEND THE FLORIDA BANKERS' ASSOCIATION FOR ITS COOPERATION TO ENHANCE BANK SECRECY ACT AWARENESS AND COMPLIANCE AMONG ITS MEMBERS.

THIS CONCLUDES MY FORMAL REMARKS. MY COLLEAGUES AND I WELCOME THE OPPORTUNITY TO ADDRESS ANY QUESTIONS YOU MAY HAVE.

CID - Nationwide
Annual Business Plan Realization 1989



Percentage of Direct Investigative Time

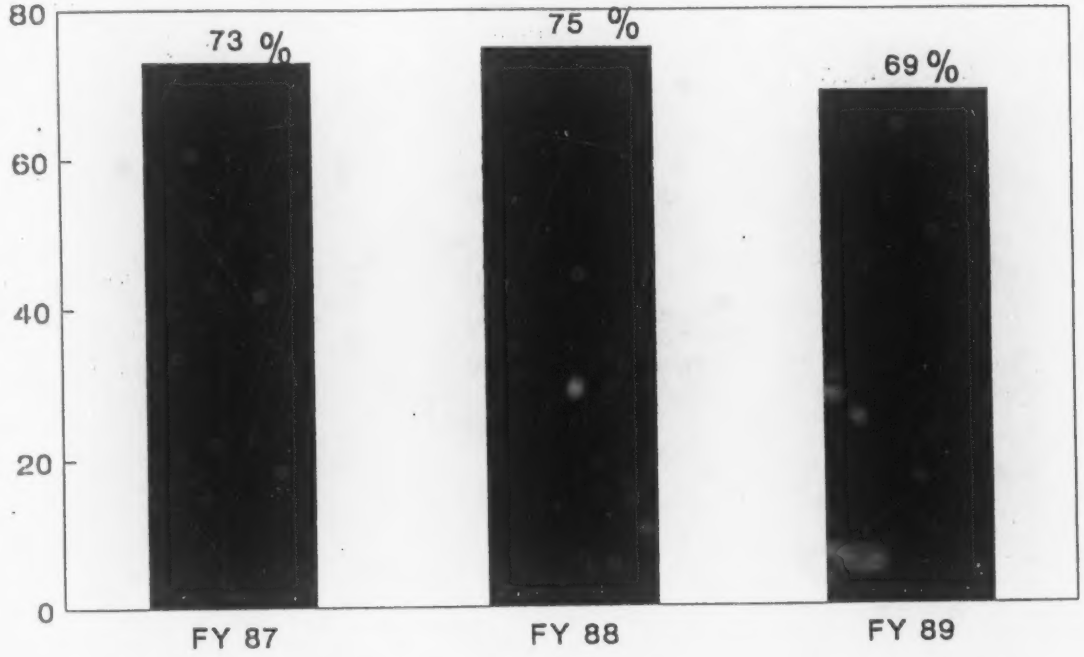
Fort Lauderdale District - CID
Annual Business Plan Realization 1989

Percentage of Direct Investigative Time

ATTACHMENT 2

Fort Lauderdale District

Narcotics and Money Laundering Cases

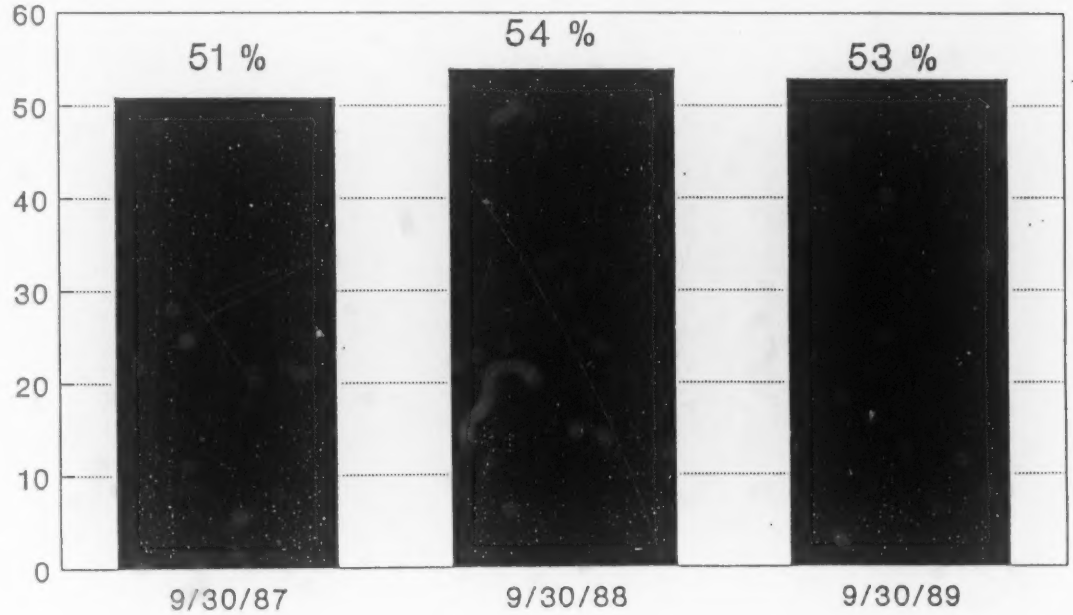


Percent of Prosecution Recommendations

ATTACHMENT 3

Fort Lauderdale District

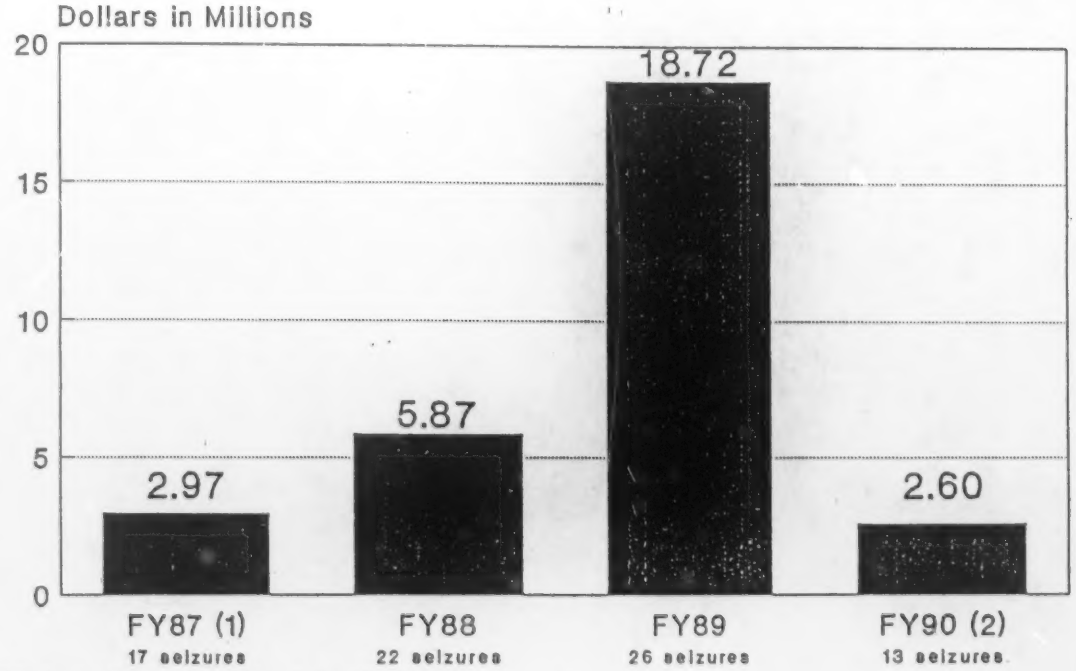
Narcotics and Money Laundering Cases



Percent of Open Inventory

ATTACHMENT 4

Fort Lauderdale District
Currency Seizures Under 18 USC 981



1 IRS jurisdiction in effect April 1987
2 Figures thru 11/30/89 only

ATTACHMENT 5

Internal Revenue Service Department of the Treasury

District Director

P. O. Box 292590, Ft. Lauderdale, FL 33329-2590

The Honorable Robert Graham
United States Senate
Washington, D.C. 20510

Dear Senator Graham:

On December 4, 1989, I testified at a public hearing of the Senate Banking Committee which you chaired in Ft. Lauderdale, Florida. During the hearing, you asked for my views about what measures or indicators the Internal Revenue Service and Congress should use to evaluate future Service efforts to deal with narcotics related and money laundering cases in South Florida. I would like to address those questions and supplement my prior oral and written statements for the record.

As I stated during the hearing, the Internal Revenue Service will continue its commitment to the Federal effort in identifying and prosecuting members of significant narcotics trafficking and money laundering organizations. The IRS, as a major participant in these efforts, will continue to support the objectives of Operation Greenback through narcotics related money laundering investigations in the National program designated as Florida/Caribbean Organized Crime Drug Enforcement Task Force (OCDETF). We will continue to carry out our efforts jointly with the United States Attorney and other investigative agencies to ensure that the totality of the efforts are not duplicated and are the most effective and efficient means for attempting to eliminate the illegal narcotics and money laundering organizations in South Florida. Participation in the Florida/Caribbean OCDETF is one means for accomplishing this goal.

I would not presume to advise you as to what Congress should focus on in evaluating the Internal Revenue Service efforts; however, it might be helpful to list key areas in which the Service must be successful in order to have some impact on narcotics related money laundering in South Florida.

Continued success in these efforts will depend on a number of critical factors:

(1) The ability to develop and maintain dependable and reliable sources of significant information on money laundering organizations.

(2) The ability to develop and maintain reliable informants in the U.S. and elsewhere.

(3) The ability to carry out undercover operations necessary to successfully investigate and prosecute principals involved in complex criminal money laundering activities.

(4) Maintaining a high degree of compliance by financial institutions with currency transaction reporting (CTR) requirements.

(5) Further enhancing our ability to analyze CTR and other financial reports to develop investigative leads.

(6) The incidence of successful prosecution of defendants for significant violations of money laundering or income tax violations related to narcotics activities.

(7) The dollar value of administrative or judicial forfeitures of seized cash or other assets from narcotics related activities.

The Internal Revenue Service will also continue to monitor those indicators which originally helped identify the unique problems of illegal money laundering and narcotics trafficking in the South Florida area, including cash flow surpluses in the Miami Federal Reserve Bank. Our efforts to educate the banking community and others about their responsibilities in carrying out the Bank Secrecy Act reporting requirements will continue.

An attachment to this statement provides an example of some key statistical indicators utilized by the Internal Revenue Service to help evaluate the program activity of the Ft. Lauderdale District's accomplishments in the area of illegal money laundering and narcotics investigations. These statistics can only serve as a threshold indicator of program effectiveness. They do not measure the substance of each case or impact of each investigation, which must be done on a case-by-case basis.

I appreciate the opportunity to testify before the Senate Banking Committee and I'm hopeful that the information and testimony provided can be useful.

Sincerely,

Merlin W. Heye

Merlin W. Heye
District Director

Senator GRAHAM. Our third speaker on panel one is Mr. Leon Guinn. Mr. Guinn is the Assistant Regional Commissioner, U. S. Customs, South Florida Enforcement Area of U. S. Customs Service.

STATEMENT OF LEON GUINN, ASSISTANT REGIONAL COMMISSIONER, ENFORCEMENT, U.S. CUSTOMS SERVICE

Mr. GUINN. Senator Graham and Congressman Shaw, thank you for the opportunity to be here. I also have with me Mr. Tim Wagner, who is Acting Special Agent in charge here in the South Florida area and his assistant, Special Agent in charge, Mr. Ken Straud, who was one of the original members of Operation Greenback and has an extensive history in the area of money laundering.

My statement also has been presented for the record and, with your permission, I would like to deviate from that a little bit as well because I think the statement merely is a recapitulation of where we have been in Operation Greenback and some impressive, if you will, statistics resulting from that.

I think there is concern over where the Customs Service is today in money laundering and I would like to address that rather than the prepared statement.

Customs has been one of the leading agencies involved in money laundering, and I can assure you we will continue that commitment in both resources and manpower in attacking the money laundering problem as well as the problems related to drug interdiction.

We continue with the same level of resources devoted to money laundering that we have had in the past. I think the experiences within Operation Greenback, an experimental program at the time it was initiated, has been very successful, and coming out of Greenback has been a training program as well where I think Customs, the Internal Revenue Service and those associated with Greenback have educated the rest of the Federal establishment as well as in some cases the State and local agencies in what we have done in money laundering.

So there are now, in addition to what was Greenback, numerous other agencies involved in the process of money laundering, the Federal Bureau of Investigation and the Drug Enforcement Administration specifically.

Growing out of Greenback there was a national effort that was titled Eldorado that was designed to look at the money laundering process and actually prior to the establishment of laws that defined money laundering. Eldorado was blended into the concept called OCDETF, the Organized Crime Drug Enforcement Task Forces, and Customs' commitment there at the time was in the financial realm as well as the drug interdiction realm.

In South Florida at the time in 1984 when Miami became the 13th core city within the OCDETF, a conscious decision was made at that time to keep that entity known as Greenback as the Internal Revenue Service and the Customs commitment to OCDETF. So a defined name was utilized as an involvement in OCDETF.

As we progressed in the area of money laundering and as the trends and methods of moving money changed, we modified the

concept called Greenback. We maintain the same commitment to the process of money laundering, but were locked into specific types of investigations. Some of those investigations are worked under the concept of OCDETF and others are worked with State and local agencies. Had we maintained I guess that name Greenback, they would still be Greenback type cases, but the commitment to a physical location has changed a little bit.

I was recently quoted as saying that we haven't decided on a particular strategy for attacking money laundering. I think we are attacking money laundering in a number of different areas, whether those are the exploited banks, the physical transportation of currency, trafficker-owned institutions and now I think we need to determine what will be Customs' role as we look at the problems involved in domestic money laundering, money that is not necessarily leaving the country or, when it does, it is being handled by normal banking modes, wire transfers, et cetera.

Customs remains committed coming out of Operation Sea Chase. There is a national program right out of Washington called Sea Chase International which will involve the foreign governments and exchange of information and exchange of evidence and a working together with foreign powers to pursue money laundering on an international basis and the establishment of FCEN, or the Financial Crimes Enforcement Network in Washington. Customs is standing fully behind that and has dedicated I understand about $18 million and a great deal of resources to the process or the intelligence center to be known as FCEN.

So the process is changing and we are changing with the process, but I assume you we remain committed to tracking money laundering.

[The prepared statement of Leon Guinn follows:]

STATEMENT OF

LEON W. GUINN

ASSISTANT REGIONAL COMMISSIONER (ENFORCEMENT)

UNITED STATES CUSTOMS SERVICE

SOUTHEAST REGION

December 4, 1989

Gentlemen, I am Leon Guinn, Assistant Regional Commissioner (Enforcement), of the United States Customs Service, Southeast Region. It is a pleasure to be here today to testify before this committee relating to Customs involvement in money laundering investigations in South Florida and other areas within the United States.

Operation Greenback began in 1980 as a multi-agency investigation of money laundering in the South Florida area. Since that time the investigative concept has grown into a money laundering enforcement program which encompasses the United States and cooperating foreign governments. The concept of a multi-agency investigative initiative did not start with Operation Greenback. The concept first achieved fame when Attorney General Robert Kennedy instituted the Strike Force concept. We now have a new generation of multi-agency investigations which have come to be known as Organized Crime Drug Enforcement Task Forces. The United States Customs Service fully supports all multi-agency investigative efforts no matter what banner they carry.

In 1980, the United States Customs Service dedicated seven (7) agents to Operation Greenback. In 1981, Customs increased it resources to ten (10) agents. By 1983, Customs Greenback resources had reached twenty-six (26) and remain at that level.

In addition to Customs provided personnel, the Service has obtained overtime funding for up to twenty-five (25) state and local law enforcement officers who have been cross designated as Customs Officers. These officers augment Greenback personnel in all aspects of money laundering investigations.

Operation Greenback investigations in the past nine (9) years have resulted in more than 400 arrests and 300 million dollars in seizures. During the past year, investigations conducted by Customs dedicated personnel in Miami resulted in thirty-six (36) arrests and seizures exceeding 9 million dollars. Present Greenback related investigations involve complex nationwide money laundering enforcement efforts coordinated between six (6) major metropolitan areas. These investigations cross Federal, state and local jurisdiction and require joint cooperation of all levels of law enforcement. During the past year, these multi-agency enforcement efforts have resulted in 166 arrests, 88 indictments, 105 convictions, 1,869 kilos of cocaine and $52,272,457.00 seized.

Customs continues to monitor and conduct enforcement efforts to uncover other money laundering channels. This program is coordinated under our Operation Buckstop program. These channels include the physical transportation of currency out of the United States and the purchase of goods for export to hide the source of funds. This program is staffed by nine (9) Office of Enforcement personnel and augmented by numerous Customs Inspectors assigned to the Customs Contraband Enforcement teams. This program has been in operation for over three years. These efforts additionally augment Greenback operations when needed.

During the past year investigations by our Operation Buckstop group relating to this activity have resulted in 26 arrests, 14 indictments, 9 convictions and $6,222,316.00 in seizures.

As narcotics traffickers have evolved new methods to move and launder the proceeds of their activities, we have developed innovative investigative techniques to detect these illegal activities. We are constantly reviewing our commitment to these investigations so we will provide the support to our investigators that will ensure that they have the tools needed to conduct effective investigations.

I have outlined the Customs Service's two major programs concerning the illegal laundering and movement of U.S. currency. Although many specific facts involving these outlined programs cannot be discussed in public, I would be happy to respond to any questions at this time.

Senator GRAHAM. Thank you very much, sir.

I have some questions and I would like to divide them up into, first, some that relate to Greenback and other domestic operations and then, second, those that relate to international money laundering.

We are going to follow the rule of the Senate Banking Committee which is 5 minutes for questions. I will start and then Congressman Shaw, and we'll rotate as long as we have some questions to ask.

On the issue of Operation Greenback, in each of your written testimonies you have commented about the success which Greenback had in terms of numbers of cases, in terms of some of the educational benefits and the role model that it served.

What do you think, and I'll start by asking Mr. Saphos, were the reasons for the success of Greenback?

Mr. SAPHOS. Sir, I believe the reasons for the success were the commitment by the agencies and by the Department of resources which they knew were going to be dedicated to extremely labor-intensive, long-term covert in most instances investigations where the returns would not be readily apparent in the short run, but which would be of benefit to us in the long run.

The benefits that we derived from those long-term, very labor-intensive investigations that were conducted in this region is that we described the method of laundering money by the Colombian narcotics cartels. That was something that heretofore had been a mystery to us.

After describing that, we were able to determine the best ways to investigate these persons' conduct and thereafter determine the best ways to prosecute this conduct and, last, we were able to teach those methods of investigation and prosecution to other agents and prosecutors nationwide so that we could geometrically increase the number of persons that we had going after these money laundering enterprises and the drug cartels that fed them with money.

Senator GRAHAM. Would either of the other two panelists like to comment further on what you felt were the reasons for the success of Greenback?

Mr. HEYE. Mr. Chairman, I think partly the initial successes we had were the quick results we got from the banking community particularly with regard to enforcing the currency transaction reports.

Mr. GUINN. Mr. Chairman, I think, too, there was a commitment that was made on the part of the Government and the process of selecting people in something that was a new and exciting innovation here in looking at money laundering, and I will attribute some of that to the leadership and Mr. Saphos, who was one of the lead attorneys in Greenback at that time. There was a commitment of manpower and that manpower itself was committed.

Senator GRAHAM. With that background, when the Banking Committee had its hearing on November 1, 1989, and we heard the report of the reduction of resources for Operation Greenback there was considerable concern about that development.

You indicated that the decision I think, Mr. Guinn, was made in the summer of this year to begin a restructuring of Operation

Greenback. From whence did the order to restructure Operation Greenback emanate?

Mr. GUINN. I don't know that there was, Senator, an order to restructure. I think there were some conscious decisions that were made at the time as we looked again at the strategy involved in attacking money laundering and, if I may, the commitment of the Customs Service to the process of investigating money laundering fell under that umbrella known as Greenback.

The types of investigations and the things that we are doing today kind of pulled away from, you know, a word and I wondered at the institutionalization of that phraseology Greenback. We are still doing the money laundering investigations.

Some of those money laundering investigations remain within the four walls that define Greenback, and other efforts within money laundering take us outside of there. Some of the reasons for moving manpower from the building is we are running a number of covert operations which did not lend themselves to daily appearances of the agents involving coming and going from the Federal Building and the U. S. Attorney's Office.

There was a movement of attorney resources within the building and a number of things that went into the final decisions and rededication of resources into other areas of money laundering by the Internal Revenue Service. While we can still maintain the commitment to the concept of money laundering, the ordinarily defined concept called Greenback still exists.

I don't think that there is any movement of resources away from the money laundering aspect and attacking money laundering at every possible level that we can, but still maintaining an institutionalized terminology and I'll question that to some degree. We will still maintain multi-disciplined and multi-agency task forces and we will not lose the thrust that we have in money laundering.

There may be an overconcern about a very successful operation, an operation that may rightfully need to remain, and to explore some of these other experimental areas, as Mr. Saphos indicated earlier, looking at what we don't know yet about what the drug trafficker is doing to launder his money, as we go back to the original concept of Greenback as an experimental tool to help us to better understand, and that commitment can be in terms of manpower somewhat less than our total commitment is to money laundering, but we will not lose that total commitment to money laundering.

Senator GRAHAM. My 5 minutes for the first round has expired.

Congressman Shaw.

Congressman SHAW. Thank you, Senator Graham.

Mr. Saphos, you made reference in your testimony to the money laundering and its effect on the automobile and boat industry. I assume what you were referring to were the large cash payments that were paid out for the, or I know it was the aircraft and boating industry, but the large amount of cash payments that were made in the purchase of those type of vessels and aircraft. Is that correct?

Mr. SAPHOS. In part, yes, sir. Certainly money laundering in its most simplistic form can be purchasing a BMW car, and however much it costs to purchase a BMW car I wouldn't now, but I pre-

sume $40,000 in $20 bills. That is also money laundering. It's an illegal cash transaction that furthers the enterprise.

Congressman SHAW. I thought that that was addressed in the 1988 Narcotics Act. Am I wrong in that? There were a lot of things put in and then fell through the cracks. So it may have fallen out and I would not be aware of it, but I thought it stayed in there.

Mr. SAPHOS. It certainly is in there, and that is an illegal transaction. If the purchase either conceals the identity of the purchaser, as happened in a recent investigation in the Washington metropolitan area with an automotive dealership, or if it is to further the enterprise, that is the BMW and however the automobile is going to be used for the purposes of the business enterprise, that's criminal and can be prosecuted.

That is very simplistic money laundering, but it is in fact money laundering and it does in fact further the conduct. It furthers a drug enterprise. But even greater than that are more covert types of non-cash transactions that are criminal in nature that tends to purchase things which are used to further the conduct of the enterprise. We are committed at looking at all of those other types of transactions to determine where their area of vulnerability is.

Sir, they are enterprises which are like the banking business wherein the persons in the business are very largely honest and very largely do not want to do anything which either directly or indirectly benefits the narcotics traffickers and who are innocently conducting business in a way which does in fact benefit the narcotics traffickers.

Congressman SHAW. Are there further legislative needs in this area?

Mr. SAPHOS. Well, in 1988 you all gave us the Precursor and Essential Chemical Act which addressed the regulatory needs and registration needs in the chemical industry. We are regulatorily now just putting that into play. I think after examining that we may determine that in other areas of domestic international commerce that we do need further legislation. However, I would ask that perhaps you could give us a year with that act to make certain determinations, but I certainly appreciate your interest in the area.

Congressman SHAW. Thank you.

Merlin, in your testimony you brought out the fact that 70 percent of your prosecutions were drug related. I assume you're speaking of the South Florida office, but is this all IRS prosecutions that 70 percent of them are in some way drug related, or did I take that out of context?

Mr. HEYE. Congressman, in South Florida this past year approximately 70 percent of our prosecution recommendations have been drug related cases.

Congressman SHAW. You also brought out the fact that there were only special agents when you came down and that is still the case. Of course, I'm sure you understand there is not a great constituency out there for us to put more agents in the IRS, but I certainly was not aware that your special agents were spending that much time on narcotics trafficking and I assume the Senator didn't either. Perhaps we would become supporters of more special agents of the IRS armed with that knowledge.

What is it nationwide?

Mr. HEYE. Nationwide, sir, if you will bear with me just a moment, I've got some charts in the back of my testimony.

Congressman SHAW. Is this the document that we have up here?

Mr. HEYE. I think so, yes. In the back of the written testimony, attachment 1 speaks to the direct investigative time nationwide in fiscal year 1989 in which 33 percent of the time spent was devoted to narcotics crimes, whereas in what we call white collar crimes, which is tax evasion by legitimate business, it was 39.1 percent, whereas in the Ft. Lauderdale District narcotics time spent was 62.8 percent of our total time and only 19.8 percent devoted to detecting tax evasion among the general public.

So we devote, in addition to Operation Greenback, which is only 10 percent of our work force, we devote another 50 to 60 percent of our other special agents' times to money laundering or narcotics related cases. Now that could also be tax evaluation of narcotics traffickers or profiteers from the narcotics trade.

Congressman SHAW. I believe my 5 minutes is up.

By the way, Senator, I'm glad to hear that there are some limits on debate in the Senate. I wasn't aware of that. [Laughter.]

Senator GRAHAM. It may not be apparent elsewhere, but in this Committee they are operative.

Congressman SHAW. It certainly wasn't very apparent in the last days of the Congress when I was watching you on C-Span wondering when you would finally wrap up over on the other side.

Senator GRAHAM. If it was confusing over the television set, you should have seen what it was like at close range.

I would like to return to some of the history of Greenback, and I'm still interested in where the authority for the restructuring that began this summer took place.

I'm wondering, Chuck or Merlin, if you have any comments as to where your agencies received their instructions relative to what your relationship should be with Greenback?

Mr. HEYE. In the Service's case when we reduced our physical groups from two to one, that was my decision as the local Tax Administrator. I received some recommendations from the Criminal Investigation Division about the resources giving all the responsibilities we have in either title 26, Income Tax Investigations, or Money Laundering under title 18 and title 31.

What had happened over a number of years is we devoted a lot of time to the CTR requirements of banks and the money exchangers. As you mentioned in your opening remarks, South Florida is sort of a funnel for all networks of money laundering throughout this country, and a lot of our work changed, particularly after the Organized Crime and Drug Enforcement Task Forces began operation around the country.

Within our agency almost every one of our other 12 areas would contact us with the need for information from us or for us to participate in their investigations because they had someone from Florida and particularly from the Miami area involved.

So obviously when we acted to that, we had to expand beyond Greenback into, for instance, we have a group here in Ft. Lauderdale that began working on very similar things to Operation

Greenback. We have another group in Dade County that operates in somewhat the same fashion.

So in Greenback itself when we took a look at it and compared it to some of the other cases we had waiting, some of them in narcotics and a couple of them are bank investigations where we still think there are some CTR violations, we felt that we had to take some of these people that we were devoting to Greenback and move them into some of these other related investigatory areas.

Now we did offset a little bit of that commitment with the acquisition of and cooperation with the Metro Dade police officers who help us in the local efforts in seizures and some of the groundwork for carrying out the local efforts.

But to make a long story short, the decision to transfer people out of the Greenback group in the U.S. Attorney's Office was mine and was made for a variety of reasons which I discussed.

Senator GRAHAM. Could I summarize to say that the decision was made locally with either the acquiescence or support of the central office and made because of your assessment of where the relative priorities were for the use of your resources?

Mr. HEYE. Yes, sir, that's stating it better than I did.

Senator GRAHAM. Chuck.

Mr. SAPHOS. Sir, I think the decisions concerning utilization of local manpower in the U.S. Attorney's Office are those of the U.S. Attorney, and it would be unfair for me to comment on the decision-making process that the U.S. Attorney's Office went through.

However, prior to making this decision, I was briefed on the proposal by the U.S. Attorney's Office and I concurred in the determination by the U.S. Attorney and I agreed that I would maintain my commitment of attorneys assigned here to the money laundering function from the Criminal Division and legal technicians during this period of time.

I would like to emphasize the Operation Greenback, sir, was initiated as an experimental program, and the experiment continues on how best to attack the narcotics cartels and how best to attack the industries like money launderers that support them. Perhaps other configurations that are in that experiment of utilization of our resources are necessary, and certainly constant self-examination is important to determine whether we're doing the very best job that we can with our resources available.

One of the things that we have discovered is that a narcotics money laundering investigation should be a very important portion of all investigations in narcotics enterprises and that by confining either by edict or by tradition our narcotics money laundering investigations to a certain small population of our prosecutors and investigators is a mistake and that may act as a disincentive for our investigators and prosecutors to look into that very important aspect of criminal activity.

So I do support the continued experimentation in better ways to go after these enterprises and will continue the resource commitment that my Division is making to this.

Senator GRAHAM. I would just editorialize on this issue that when something that has had the kind of visibility and support as Operation Greenback is going to be significantly changed, it should be anticipated that there is going to be interest in that event and

why it occurred, and when that information leaks out rather than is presented in a coherent manner, people will be suspicious as to motives and as to why actions were taken.

In this case as recently as the last week in October at a symposium held in Miami on money laundering activities Attorney General Richard Thornburgh contained in his remarks some very laudatory statements about Operation Greenback without apparently personal knowledge or an impression to the audience that the Operation Greenback was being folded, and that reinforced some of those concerns.

So I think there is a lesson from this as to how you need to handle a change in law enforcement, and that lesson is essentially one of candor and openness, and the price for not following that lesson is suspicion and benefit to the enemy and not to the allies.

Mr. SAPHOS. Senator, as you can tell from my oral presentation today, I am very used to making my public speaking appearances in a court of law on my feet, and I stand educated in this issue of how to deal with the public and how to deal with these types of issues. Thank you.

Senator GRAHAM. Another aspect of this, and my 5 minutes is now up and I'm going to return to Congressman Shaw, is, as part of the recent drug enactments there was created a new position of a Drug Coordinator who is supposed to have some oversight as to our national strategy. We have all agreed that money laundering is a key part of that national strategy, and none of you indicated that Dr. Bennett played a role in the decision to reduce Operation Greenback, and when my turn comes back again I'm going to ask where we go from here. Is that accurate? Did Dr. Bennett know about, concur in or initiate any actions relative to a change in the method by which money laundering cases would be pursued?

Mr. SAPHOS. Sir, to my knowledge, Dr. Bennett's office was not consulted. To my knowledge, there has not been any reduction in the commitment by the Department or any Agency in resources in investigating and in prosecuting narcotics money laundering cases in this district.

From the Department, our commitment of resources has been constant, and from the U.S. Attorney's Office it's my understanding that the resources have been increased. It has only been a matter of nomenclature, as I understand it, and unfortunately perhaps the Attorney General was mislead and perhaps by me because I am still carrying the Department's case load and money laundering from down here as Operation Greenback. So the Attorney General had every reason to believe that those cases were attributed to the operation that was known by that term.

Senator GRAHAM. Merlin or Leon, any comment about the involvement of Dr. Bennett in this decision?

Mr. HEYE. I am relatively certain that the Service did not notify Dr. Bennett.

Mr. GUINN. And at Customs I would say absolutely not. It was a local decision concurred in by myself and discussed with headquarters, not a pulling away from Greenback, but merely a pulling away from a co-located effort.

As you may note from the testimony that was submitted, and even in my own testimony, we continue to refer to our money laun-

dering effort as Greenback. I think it's time maybe that some terminology be changed there. We have been involved in major money laundering cases, Operation Sea Chase, which was a Customs' initiated case, we have joined with other agencies in the case of the Isle of Man and Operation Polar Cap, and those three cases and others similar to them fall within the OCDETF umbrella.

And repeating myself from earlier, our commitment within OCDETF was once called Greenback. Our concept here and the institutionalization of certain types of cases and the need for further experimentation have pulled us away from co-location but not from the concept.

Senator GRAHAM. Congressman.

Congressman SHAW. Thank you.

One of you gentleman made reference in your testimony as to the use of SMURFS and that $10,000 window that is left for the drug trafficker as far as association with banks.

I would like to reflect on another gaping hole, which I consider a gaping hole in our whole concept which makes almost the rest of it not useless, but somewhat close to that, and that is the question of wire transfers from out of the country.

Would any of the three of you like to comment on that and speculate as to the amount of illegally obtained funds that are funneled into the United States banking system quite legally by the use of wire transfers from outside of this country?

Mr. HEYE. Congressman Shaw, I can comment to some extent on that, although I can't speculate as to the amount of money that is transferred in that manner that is from drug proceeds.

In the Ft. Lauderdale District and prior to that in the old Jacksonville District which covered the entire State we have had a couple of experiences with wire transfers.

One was before the changes to title 31. We secured wire transfer information from a major South Florida bank through its correspondence accounts with a Bahamian bank because we had some experience in grand jury cases that we knew there was money laundering going on. We got this under title 26 and we had to get it under a John Doe summons, which is a very lengthy procedure and we had to have the permission of the U.S. Federal District Court.

With that information and with some other information that we had on file from some of our South Florida investigations we did sort through that money laundering—the wire transfer information—and it was a very tedious job. Even though we only had 1 month's receipts, we were able to establish many suspicious type transactions, but we didn't have the staffing and the resources at that time to follow up on it because through the John Doe summons process the material became very old and we worried about a Statute of Limitations under title 26.

Recently under the authority given us in coming under Operation Sea Chase we do have our civil examiners, our revenue agents currently looking at wire transfer records which clearly establishes schemes to move money out of this country to Switzerland and to European tax haven countries as well as Caribbean and Central American tax haven countries, and the wire transfer records of the bank are very helpful to us.

We haven't forwarded the case or referred the case for any criminal investigations yet, but civilly it's looking well and it's just a matter of how do you condense that information into something that you can use in the investigations. I think that will be the challenge, and I don't have any answer as to how you do that at this point.

Congressman SHAW. My question was more phrased around the wire transfer of monies from outside the country to banks inside of the United States.

Mr. HEYE. Some of this operates in that direction.

Congressman SHAW. In other words, a drug lord can take his proceeds and put it into a bank in Panama, transfer it into an account in the United States and I don't think you fellows every get a record of it, do you?

Mr. HEYE. Right, there is really no way.

Congressman SHAW. But yet we're worrying about some guy walking around with $10,000 and putting it into the bank account and trying to track them down. It appears to me that this is a tremendous flaw in the whole reporting system that we have on money laundering within the banking system, and that is that people can put in millions of dollars, transfer it into a bank account in the United States and virtually go unreported where if they put $11,000 cash in the Sun Bank next door to where we're having our hearing he's going to have to get written up.

Now to me there are some problems there, and because of that, Bob, I've drafted a bill which I will be filing next year when we return to the 101st Congress that would eliminate that loophole. I'll make that bill available to you in case you would like to be the primary Senate sponsor in putting that in. Obviously that has to go through the hearing process. There are some problems and I know there are some objections because I tried to get it into the Narcotics Act of 1988 and there was a lot of friction from that.

But I would appreciate, and in fact the witnesses here today, we will supply you with a copy of that bill and see if you see some problems or where you might make some changes in the drafting of the bill before I do file it in the House, and it also would be helpful to Senator Graham in his critiquing of the bill to see if he has an interest in making it the Graham/Shaw bill.

Senator GRAHAM. Or the Shaw/Graham bill. The order of the names may have something to do with how well received the idea is. [Laughter.]

Congressman SHAW. Thank you.

Senator GRAHAM. Thank you, Clay.

One final line of questions relative to Greenback.

There has been some suggestion that maybe one of the reasons for the change in status has to do with some concerns about the internal operation Greenback, including the possibility that there is a grand jury investigation of that operation.

Are you aware of or at liberty to comment about that?

Mr. SAPHOS. Sir, it's a practice of the Department of Justice never to comment on the existence or non-existence of any grand jury investigation, and I certainly don't want my repeating of that policy to in any way imply one answer or another to the question.

Senator GRAHAM. Would you like to let that answer stand?

Mr. HEYE. I think I will follow my attorney's lead here.

Senator GRAHAM. Given the analysis of what had led to the success of Greenback and as Greenback is phased out in the manner that you've described it will be without a reduction of commitment to money laundering, how do you see those same benefits as being maintained or what additional benefits beyond those that have been possible under Greenback will be accomplished?

Mr. GUINN. I think we have identified, Senator, a number of methods that are utilized by the narcotics trafficker to launder money, and the resources that we have continue to be dedicated to that known apparatus. Now whether we continue with the name Greenback or some other terminology to define the experimental stage, if you will, of learning what the trafficker does, we will be attacking money laundering both from the known and from that experimental stage.

So Greenback as an entity may remain, keep that name and be dedicated to the pursuit of, if you will, the unknown. What is the narcotics trafficker doing, how does he in fact get his money out of the country, how does he launder it and possibly into the domestic side of that, that money that does not leave the United States as part of the money laundering process, those profits that are a part of the domestic trade.

There has been little to look at that particular avenue and these are strategies that are under consideration. They are not yet formulated. So we continue to have to look at ourselves, where we are successful, where we can continue to be successful and how we can get that one step ahead of the drug trafficker, money launderer or whatever term you want to attach to him.

The concern is one maybe of semantics. Greenback, I don't think there is anybody who wants to be associated with the demise of that name, that institution, if you will, but we have to modify and better use our resources to attack the total problem of money laundering.

Senator GRAHAM. Well, Winston Churchill didn't want to be associated with the demise of the British Empire, but he was. Those things happen.

In the earlier analysis you suggested that some of the reasons for the success of Greenback included the assurance of resources for long-term, labor-intensive investigations, the development of specialized expertise and investigation and prosecution of these cases, the encouragement of cooperation within agencies and with the banking community and the commitment of assured personnel resources for these investigations. Those were some of the reasons that were given.

Are you satisfied that all of those values will be maintained in the post-Greenback era?

Mr. GUINN. Yes, Senator, I am. I think our commitment to money laundering will remain despite name changes or shifts in——

Senator GRAHAM. Your commitment is one thing, but the assurance of resources for long-term, labor-intensive investigations, the development of expertise, investigation and prosecution, the cooperation of the banking community as well as the governmental

agencies, the commitment of personnel resources, are all those qualities going to continue as well?

Mr. GUINN. Yes, sir. I see no change in that commitment of all of the above, the amount of resources, the dedication of those people to that and the ongoing training process. Some of that process is caught up again in the Organized Crime and Drug Enforcement Task Force which has utilized a lot of the available resources in pursuing major conspiracy cases relating to money laundering. So that concept, call it OCDETF or call it Greenback or by any other name, from the standpoint of Customs there will be no loss in our efforts and our commitment of manpower and everything else necessary to maintain a very viable presence in money laundering.

Senator GRAHAM. Any supplementation of the statements that Leon has made?

Mr. HEYE. I would agree with Mr. Guinn. In addition, I would just like to mention that the Service maintains a currency and banking retrieval system out of our Detroit Computing Center which is primarily our Form 8300, which is a title 26 form, but it has to do with all the businesses in the country, the non-financial institutions who deal in currency over $10,000 per transaction. Those forms are filed with us in Detroit, and we also maintain the CTR's and the CMIR's and some of the other forms on that retrieval system.

That enables all of our special agents and our examiners at any time they are working a case to look into any money laundering transactions other than, Congressman Shaw, those areas that you spoke of in money laundering that obviously don't show up there. That's a tool that we didn't have long ago and now we have it throughout the Internal Revenue Service.

In addition, as part of the President's initiatives, the Treasury Department is establishing the financial center which will have Customs and IRS representatives to massage a lot of this information and to make it into something workable that will be available not only in South Florida but nationwide. So I think there are some sophisticated means starting to show up on our part to be able to analyze a lot of this financial information that we're getting.

Mr. SAPHOS. The commitment of the Department of Justice to these long-term, labor-intensive investigations has increased over the last 5 years, and thanks to the budget which was passed in the last hours of the Congress before this current recess, we have increased the number of prosecutors that we have available in the Criminal Division by over a hundred to do these specific types of things.

The normal U.S. Attorney's Office has a reactive caseload which is of such a high degree that it's extremely difficult for the U.S. Attorney's Office to commit resources to long-term investigations which are speculative sometimes and experimental sometimes.

It's the role of the Criminal Division of the Department of Justice to initiate prosecutions and investigations which are designed for a didactic purpose to determine whether there is a better way to go out and skin the cat, and we are committed to continuing that.

Senator GRAHAM. Congressman Shaw.

Congressman SHAW. I have no further questions.

Senator GRAHAM. This will be my last question on Greenback and it may be one that you would like to respond to subsequently, but I would be interested in what will be your own monitors of success in the post-Greenback era, what anecdotal or statistical information will you be looking at to make a management judgment as to whether the successes of Greenback are being maintained and extended in the post-reorganization era.

If you would care to comment on that now or if you would like to indicate subsequently the record will stay open for that.

Mr. GUINN. Let me respond, if I may, Senator, in general terms and we can keep the record open for more specifics later.

I think in looking at the success of an operation as Greenback or the success of our money laundering effort in general what we should be looking at is not the amount of monies that we seize, but rather the nature and the level of the violator that we are able to apprehend and bring to prosecution.

We will continue to see sums through the techniques that we use, but I think we need to be looking at the organizational structure and attempting to work somewhere above the so-called street level and moving into the hierarchy of the money laundering and drug trafficking organizations.

Mr. HEYE. I would agree with Leon on that. And, if you don't mind, I would like to submit something for the record on that.

Senator GRAHAM. Thank you.

Chuck.

Mr. SAPHOS. I, too would like to leave the record open to follow up on that issue. However, I could observe right now that we believe that part of the success in the anti-narcotics money laundering effort which the Federal Government has had thus far is that we have made the cost of laundering money and the exposure that the money launderer has to prosecution or criminal conduct by other money launderers has increased incrementally over the years.

Heretofore where a single money launderer could launder millions and millions of dollars a week by merely walking through the doors of financial institutions in this community and elsewhere has stopped. They have to employ very expensive and large networks of personnel and equipment in order to launder money now, and they are much more vulnerable now to penetration by law enforcement officer and to criminal conduct by their employees or by other traffickers or money launderers.

We think that increasing the cost of laundering money and increasing the cost of criminal conduct is what we do for a living and we would hope to see that continue.

Senator GRAHAM. If you supplement your comments as to what you are going to be looking at as the monitor of your success level, I would also be interested in what you think the Congress ought to be monitoring to assess your success.

That completes my questions on Operation Greenback, which is the principal area that I wanted to pursue. Let me ask a couple of other domestic questions before a few international questions.

Domestically, Chuck, you mentioned the fact that there was a role in money laundering for some of the non-financial institutions,

and you mentioned airlines as one. Do you believe that there is a role for the regulators of those institutions, such as the United States Department of Transportation, vis-a-vis the potential use of those industries as a source of either money laundering or the facilitation of money laundering?

Mr. SAPHOS. I certainly do, sir, and I think that it's a role which ironically enough you've picked airlines for that one, and that is an area where we did find ourselves extremely vulnerable to money laundering by the Nigerian heroin traffickers and we have had the assistance of the airline industry, the airline regulators and the cooperative international airline associations in addressing that problem.

It's a fairly complex fraud that is done by speculating on currency using airline tickets as the vehicle of moving money from one country to another and concealing narcotics profits at the same time. That fraud of money laundering activity among that group of traffickers has all but completely ceased as a consequence of this scrutiny.

To further amplify on that, I do see a role at least of the sensitivity for the vulnerability of industries which handle substantial sums of money to the possibility of being manipulated by criminal conduct and the obligation that the industry should have to report that type of conduct to the investigative authorities that are charged with investigating it as very important, and perhaps it's an area in which our educational processes within the government need to be improved.

Senator GRAHAM. You mentioned in your prepared statement that one of your responsibilities is at a policy level to try to assess and diagnose what is happening and then prescribe some solutions. If in that area or in any of the other areas that you commented on your diagnosis indicates that there are other needed legislative initiatives, such as expanded authority to an appropriate non-financial regulator in the field of money laundering, we would be very receptive to your suggestions.

Mr. SAPHOS. Thank you, sir.

Senator GRAHAM. On the issue of financial regulators, several of you have commented in your statements relative to the role of agencies, such as the Federal Reserve Board, particularly as it relates to wire transfers. What is your current level of satisfaction of the role of the financial regulators in assisting you in dealing with money laundering and especially wire transfers and other of the new techniques that are being used?

Mr. HEYE. Senator, I'm not sure I can speak to that area of wire transfers. I do know that we have delegated authority from the Secretary of the Treasury on the civil side of the house to look at the CTR requirements for everyone except the banks and those institutions regulated by the Securities and Exchange Commission. That means transmitting of funds abroad, telegraph companies, check cashers and what-have-you.

Our field people feel somehow they ought to be regulated in some manner. Now whether that would be under State laws or Federal law, we would look for some initiatives there possibly.

Senator GRAHAM. Are you speaking of regulation, for instance, of certified public accountants?

Mr. HEYE. I didn't intend to include certified public accountants. We are into Form 8300 problems with defense attorneys right now. So more so in the area of check cashers and currency forwarders. Those industries are largely unregulated from the financial standpoint either at the State or Federal level, and we would certainly use some legislation there.

Senator GRAHAM. We are going to have on the next panel a representative of the Florida Comptroller's Office, and there was some testimony on that specific issue at the early November hearing that we had on this subject. So I would like to alert the representative of the Comptroller's Office to anticipate a question or he might incorporate it into his comments what the State is doing vis-a-vis these informal cash transfer agencies.

Mr. HEYE. As I understand it, with the wire transfer problems, I know that the Treasury Department is wrestling with their regulations under title 31 now. The difficulty there is how do you use a rifle to get at the information considering the amount of money that is involved in commerce, legitimate commerce either coming into the country or going out of the country, and I certainly don't have any answers to that.

Senator GRAHAM. Any other comments on that question?

Mr. SAPHOS. No, sir. The observations, however, if I could just amplify on that rather than making additional ones, the observations that Mr. Heye made are correct on both counts. There are certain financial institutions which are not directly supervised by a regulatory arm of the Federal Government that do in fact deal as a bank and deal in international and interstate commerce, currency exchange houses being one of them, and particularly on the southwest border we have a significant problem with currency exchange houses.

It would be constitutional for the Congress to impose statutes which regulate the conduct of those persons because those persons by definition deal in interstate and foreign commerce and therefore perhaps bring their conduct more into line with the conduct of the regulated financial institutions which are licensed by the Federal Government.

The area of wire transfers, as was observed by Congressman Shaw, is a significant problem and one that we have been looking for a number of years. It's a two-fold problem. One is that the amount of wire transfers flowing across the borders of the United States each day are in the trillions of dollars, and trying to separate the wheat from the chaff among that great amount of chaff out there constitutes a intelligence problem that we have been wrestling with for a long time and we are asking other non-law enforcement agencies to address with us as well to see if they can come up with some solutions.

We continue to look at that issue to determine whether we can come up with a mechanical or intellectual solution to it or electronic solution to it.

The second problem with that is that the wire transfer itself, even if we can separate it from the massive other wire transfer to determine that this one is indicative of criminal activity, contains very little information in itself. It merely says from which bank and which account money is flowing into which bank and which ac-

count, but it does not contain information on for whose benefit the money comes and for whose benefit the money is going in itself and calls for further investigation.

Domestically that is very possible, but internationally without a continuation of our efforts now to obtain financial information from abroad it will be in many instances frustrated for a lack of our ability to obtain evidence from the sending country or the receiving country. That is not to say, sir, that efforts on behalf of Congress to assist us in this regard to use this as an investigative tool are certainly not appreciated.

Senator GRAHAM. That will be a bridge to my last couple of questions which relate to international issues.

Chuck, in your statement you commented positively about the recently ratified MLAT's, the multilateral legal assistance treaties. Are there any other MLAT's that are currently in negotiation or are contemplated to be initiated for negotiations?

Mr. SAPHOS. Yes, sir. We have had requests from some countries to initiate negotiations with them concerning MLAT's, and we have internally developed a target list of those countries that we would like to invite to join us in MLAT's, but because we have not bilaterally addressed those countries, I don't think you would like me to sit here and tell you which ones we're talking about.

As a mechanism, however, to get the process rolling and obtain the information we need right now, we have some executive agreements with countries which deal merely with the exchange of evidence of money laundering or narcotics trafficking which we are using as a hold fast until such time as we can negotiate a full MLAT, such as with the Grand Cayman Islands which has been extremely successful.

Senator GRAHAM. You mentioned that the United States had recently become the third country to ratify the U.N. Convention on Drugs which was adopted in December of last year. What is your sense of the status of other countries ratifying that U.N. Convention?

Mr. SAPHOS. They are moving rather rapidly, sir. The interest of the other countries, if you recall, it was negotiated by 114 countries and thus far has been signed by 77 and, as you said, ratified by three. It's substantial.

However, many other countries need to pass the legislation first, which is required by the convention, prior to their ratification of it. It has been and will continue I presume for a long hop and is quite demand on our resources to assist those countries in developing appropriate legislation to bring themselves into line with the U.N. Convention.

But we are working very hard with them as is the Organization of American States and the Division of Narcotic Drugs in the United Nations to assist them in developing that legislation so that they can further ratify it. It will only take 20 nations to bring the convention into full effect, and I would easily see by this time next year that the convention will be in full effect.

Senator GRAHAM. Very good.

Mr. Congressman, do you have any further questions?

Congressman SHAW. No.

Senator GRAHAM. I wish to thank the members of this panel for a very illuminating set of statements and responses to questions, and where we have asked for some follow-up information we will keep the record open to incorporate it.

Thank you very much.

If the members of panel two would please take their place, the first presentation will be made by Mr. Larry Fuchs of the Florida Comptroller's Office.

Mr. Fuchs, thank you for being with us today.

STATEMENT OF LARRY FUCHS, DEPUTY COMPTROLLER, OFFICE OF THE FLORIDA COMPTROLLER

Mr. FUCHS. Thank you, Senator and Congressman Shaw.

Please pardon my voice if it strays a little bit. I'm just trying to recover from a flu.

On behalf of Florida's Comptroller, Gerald Lewis, myself and the entire staff of the Department of Banking and Finance and the people of the State of Florida, I would like to express my appreciation to you for calling this hearing.

Comptroller Lewis has a written statement, and if you would, please, make that a part of the record.

Senator GRAHAM. We shall. All of the written statements of both panels will be fully incorporated into the record.

Mr. FUCHS. Historically Florida's elected leaders, including Comptroller Lewis and yourself both as Governor and now as Senator and of course Congressman Shaw have long recognized that Florida is the front line in the war on drugs, not only because of our proximity to the drug exporting nations and our thousand miles of ocean exposure, but also because of the effect that the narcotics industry has on our every-day lives.

We directly feel the inflation of real estate prices, the corruption of legitimate businesses and the cost to every single taxpayer of paying for the programs necessary to fight the menace and fight we have.

As a first-term Governor you supported Comptroller Lewis in his efforts to build a financial investigation section within the Department of Banking and Finance. We are now known as one of the most effective in the nation.

In your second term you helped the Comptroller with his legislative proposal to institute a State Currency Transaction Reporting Program. Both of these initiatives have produced tangible results.

In 1980 before money laundering became the popular topic it is today, Comptroller Lewis established a special team of amateurs and investigators to enter a financial institution without prior notice and trace the flow of cash from the teller window right through to the arranged armored car delivery to the Federal Reserve. This team was and I believe remains today unique in the United States ensuring that the cash that enters an institution is properly recorded.

In 1984 with your backing the Legislature gave Comptroller Lewis the authority to require all financial institutions, be they state or federally chartered, to file currency transaction reports with our office. Through this program and our ability to manipu-

late the data with our computers we are able to regularly service the intelligence needs of the State and Federal law enforcement officers who are fighting the war on drugs on the front line.

During fiscal 1988-89 we referred 346 instances of suspicious activity and responded to 550 requests for information from these law enforcement officers.

Though these two efforts we believe have virtually eliminated the use of the teller line as an entry point for narcotics cash, we are not satisfied with just those results.

As a third step in this process both the Florida Department of Law Enforcement and our office are requesting funding for two money laundering strike forces in the next fiscal year. Their purpose will be to attack the utilization of legitimate business for money laundering purposes. We call our computer system, by the way, COFIN, for Comptroller's Office Financial Investigations Network, and through it we are able to identify those particular industries that are making the deposits and are assembling large amounts of cash prior to the entry to the financial institutions.

Interestingly, however, we believe that to a certain extent COFIN is a waste of the taxpayers' money. We use the Federal CTR form and actually duplicate the Federal CTR data base. Both State and Federal law enforcement officers candidly tell us that the Federal program is a time delayed, cumbersome, and sometimes restricted system that is not a viable alternative in its present configuration. We therefore spend in excess of a third of a million dollars a year paid for completely by State chartered financial institutions within the State of Florida to operate a duplicate program.

It doesn't have to be that way. We have another intelligence data base in our investor protection program. It's called FLIPS for Ft. Lauderdale Information Pointer System. It is used by the FBI, the SEC, the CFTC, the Postal Inspectors and a host of other State and Federal agencies, both criminal and civil in their enforcement authority. FLIPS was designed to avoid problems with the exchange of confidential information and has worked exceedingly well since early 1984. There are now over 60,000 entries in that system and it is not duplicate of any system anywhere else.

Senator Graham and Congressman Shaw, as the Senate knows, I am the Deputy Comptroller of the State of Florida responsible for our Securities and Investor Protection Division as well as the Division of Banking. Prior to assuming this position, I was the Financial Investigations Director for Comptroller Lewis, and I'm sure that the Senator remembers that prior to that time I was an inspector with the Florida Department of Law Enforcement. I spent 11½ years as a law enforcement officer. Before that I served as an officer in the U.S. Coast Guard in the Caribbean and in Vietnam.

I observed to Comptroller Lewis while we were preparing his testimony and my own, and he asked me to repeat to you the statement that the emperor has no clothes. Up until this time at least we have lost the war on drugs.

When I was an FDLE Supervisor for the West Palm Beach, Sebring and Ft. Myers officers 10 years ago I escorted a 750 pound seizure from Okeechobee to Miami. We now measure seizures in tons and not pounds.

We have closed the teller lines as a cash entry point, but billions of dollars move around the earth by wire transfers every day as you have both pointed out.

We talk about the Coast Guard as being our first line of defense. Yet, the previous administration cut their budget and proposed recreational boater user fees are planned to be used to supplant rather than augment their budget.

A 17-year-old senior told me two weeks ago that the latest drug in his upper middle-class school was no longer crack cocaine, but they had moved to ecstasy and expect ice to be arriving in the near future.

There are three legs to our national effort to defeat the greatest threat we believe is facing our country today. The first of course is enforcement, but it's marginally effective. We are trying to stop drugs at the wide end of the funnel. We are trying to stop money laundering, but we are only one leg of the transaction, as Congressman Shaw pointed out, and enforcement gives the minimum results for the maximum expenditure. Sometimes it's a shell game I think as you pointed out in Washington, Senator Graham, where we move resources from one commitment to another and we don't add to the number of people involved.

Another leg of the triangle involved the individuals, the Just Say No Program. The results here are hard to quantify certainly in the short run, but there is plenty of evidence that we have short-term failures as well. Domestic marijuana production is up tremendously, designer drugs are infiltrating the schools and we have crack gangs operating in virtually every town in the country.

The third leg is to just change the rules, and I think this is where Congress can be of particular help. We should increase rather than curtail the multi-agency aspect of our enforcement programs such as were pioneered by Greenback. Congress should insist, for instance, that the new Treasury Department data base, known as the Financial Crimes Enforcement Network, will include State law enforcement and regulatory agencies as well as the Department of the Treasury. We must look for ways to break down the barriers imposed by certain grand jury rules, the Federal Confidentiality Statutes and the other impediments that stifle cooperation between law enforcement and regulatory agencies.

We do not want to be the quarterback, we don't want to call the plays, but we feel we have a lot of good resources that would just like to be allowed to be a part of the team. The bad guys do not allow national or jurisdictional boundaries to slow the flow of drugs or their money. We cannot beat them if we don't work on a level playing field. What we need are persons of national prominence, such as yourselves, to lead rather than just react.

On behalf of Comptroller Lewis and myself I applaud your willingness to take on this sensitive and difficult subject and pledge our fullest cooperation in helping you to achieve success.

Thank you.

Senator GRAHAM. Thank you, Larry.

[The prepared statement of Gerald Lewis follows:]

GERALD LEWIS
COMPTROLLER OF FLORIDA

OFFICE OF COMPTROLLER
STATE OF FLORIDA
TALLAHASSEE
32399-0350

Prepared Remarks Concerning

Florida's Efforts to Combat Money Laundering

By

Florida Comptroller Gerald Lewis

December 4, 1989

26-536 0 - 90 - 4

Thank you, Senator Graham, for the opportunity to share my views concerning the enforcement of state and federal money laundering statutes. I am gratified that you have called this hearing in South Florida to examine this important issue.

Florida's leaders, historically, have positioned themselves well to make a difference in our nation's anti-drug efforts. As our former Governor, you are all too aware of our need for aggressive action. During your first term as Governor, you supported my efforts to fund and staff a financial investigations section. During your second term, I was gratified by the support you gave us in our efforts to institute a state currency transaction reporting program. These hearings are another indication of your continued aggressive stance against drugs and the people that profit from them.

Senator Mack of Florida serves on the Banking, Housing and Urban Affairs and Foreign Relations Committees. These appointments are by his design, not by accident. He needs to be on these committees to protect Florida's interests. As a former banker, Senator Mack understands the Florida banking communities commitment to eradicating drug money from their institutions.

Congressman Dante Fascell of Florida serves on the House Foreign Affairs Committee and the Select Committee on Narcotics Abuse and Control. Congressman Fascell gave an address at the "International Symposium on Money Laundering" that occurred in Miami in October. My office cosponsored the Symposium, in coordination with The Miami Coalition for a Drug-Free Community, the University of Miami, and the Florida International Bankers Association, among others.

Congressman Larry Smith of Florida also serves on the House Foreign Affairs Committee and the Select Committee on Narcotics Abuse and Control. He serves as Chairman of the Task Force on International Narcotics Control, as well. Congressman Clay Shaw of Florida serves as Chairman of the House Republican Research Committees Drug Task Force. Congressman Harry Johnston of Florida serves on the International Narcotics Control Subcommittee of the Foreign Affairs Committee.

Our elected representatives, have not received their appointments by accident, but rather by design. As Floridians, we are the ones that have to deal with our proximity to the drug exporting nations - with our thousand miles of exposed coastline. We are on the front lines, and see the effect drug money has on the economy - the inflation of real estate prices - the infiltration of legitimate businesses for the purpose of laundering of illicit cash - the utilization of our financial institutions for the transport of that cash.

Seeing all of this we have chosen not to walk away, but rather to stand and fight.

For my part, as an elected state official, I feel I have an obligation to utilize the resources at my disposal to keep the proceeds of drug sales out of our financial institutions, and to aid all levels of law enforcement in their drug investigations to the greatest extent possible.

On Novembor 1st of this year, during my testimony before the subcommittee on Consumer and Regulatory Affairs of the Senate Committee on Banking, Housing and Urban Affairs, I expressed concern that federal resources in South Florida allocated to counteract drug money laundering were being curtailed. Specifically, I indicated that Operation Greenback's staff had been substantially cut, at the very time the organization was being lauded by Attorney General Richard Thornburgh as leading to important convictions of drug money launderers.

In this era of limited federal and state resources, it is vital that we utilize enforcement personnel as efficiently as possible. Our foe, the money launderer, has close to limitless resources, and does not recognize jurisdictional boundaries. Unless we work together, we will continue to be frustrated in our attempts to inhibit the use of our financial system by drug money launderers.

My reason for speaking out, as a Florida citizen and as one involved in the War on Drugs, is to insure that state and federal agencies continue to work in concert, and not in competition with each other. Unilateral actions by enforcement bodies create a duplication of effort we cannot afford, and run contrary to the President's mandate of coordinated action.

I do not mean to be overly critical of federal efforts currently underway in Florida. We are gratified at the current level of state and federal cooperation at the field level. We still find, however, institutional barriers within the Federal government that inhibit our efforts, or cause us to have to duplicate efforts already underway at the federal level. A prime example of this type of duplication is our currency transaction reporting program.

In 1980, I established a special team of examiners to check for currency transaction reporting compliance at our financial institutions. Our ability to judge CTR compliance, however, was impeded by our inability to receive currency transaction data from the Treasury Department in a timely fashion. State law enforcement shared our frustration. While Treasury wished to accommodate us, it was difficult for them to honor state requests for CTR data within the time constraints of an ongoing examination or investigation.

As a result of these difficulties, during the 1984 Florida Legislative session, I received authority to institute a state currency transaction reporting requirement. In order to maintain consistency and reduce the

reporting burden on our institutions, our CTR law is patterned after federal law. We accept the federal CTR form. Our criminal and civil penalties are similar.

In order to accommodate the need for currency transaction information in the course of the investigative process, my office has devised the Comptroller's Office Financial Investigation Network (COFIN). I have provided a schematic of the information flow within COFIN with my testimony. COFIN's purpose is to coordinate information contained within various computerized databases and disseminate that information to local, state, and federal law enforcement.

COFIN combines state data derived from currency transaction reports and criminal referral forms filed with our office with corporate record data filed with the Florida Secretary of State. This data is made available to the various levels of law enforcement on an as needed basis.

As part of my testimony I have also provided you with data regarding the number of requests for currency transaction information and the number of referrals of suspicious activity. The number of requests and referrals has escalated consistently since the inception of our reporting requirement. During the fiscal year 1988/89, 550 requests for currency transaction information and 346 referrals of suspicious transactions were disseminated to state and federal law enforcement through COFIN.

As the schematic demonstrates, our Office of Investigations is the focal point for all financial investigations falling under state jurisdiction. The office coordinates the dissemination of currency transaction information to local, state and federal agencies. CTR data is an essential ingredient in understanding the flow of illicit funds in our economy. Utilizing the CTR database within COFIN, my office has formed two money laundering strike forces in conjunction with the Florida Department of Law Enforcement and the Florida Department of Revenue. These strike forces are designed to prevent the utilization of legitimate businesses for money laundering purposes. The viability of these strike forces hinges upon the availability of CTR data.

The CTR program now costs our department in excess of a third of a million dollars a year. Much of COFIN duplicates the federal CTR database. Timely on-line access to federal CTR data by state regulatory and law enforcement bodies would eliminate the need for substantial state expenditures - at no additional cost to the federal government.

Unfortunately, state law enforcement does not view the federal CTR database as a viable substitute. The fear is that timely transaction data would become unavailable to state and local law enforcement, should we discontinue the program.

Also included in COFIN is the Ft. Lauderdale Information Pointer System, or FLIPS, conceived in March 1984 when I invited a variety of agencies to Fort Lauderdale to discuss ways to fight securities fraud. FLIPS contains data regarding state and federal enforcement activities against securities and investment "boiler rooms." Over 60,000 different businesses and individuals are tracked within the system.

FLIPS is a prime example of how state and federal agencies, when operating in a cooperative fashion through a centralized database, can avoid wasteful duplication of effort. Among others, FLIPS is utilized by the FBI, the Commodity Futures Trading Commission, and the U.S. Postal Service.

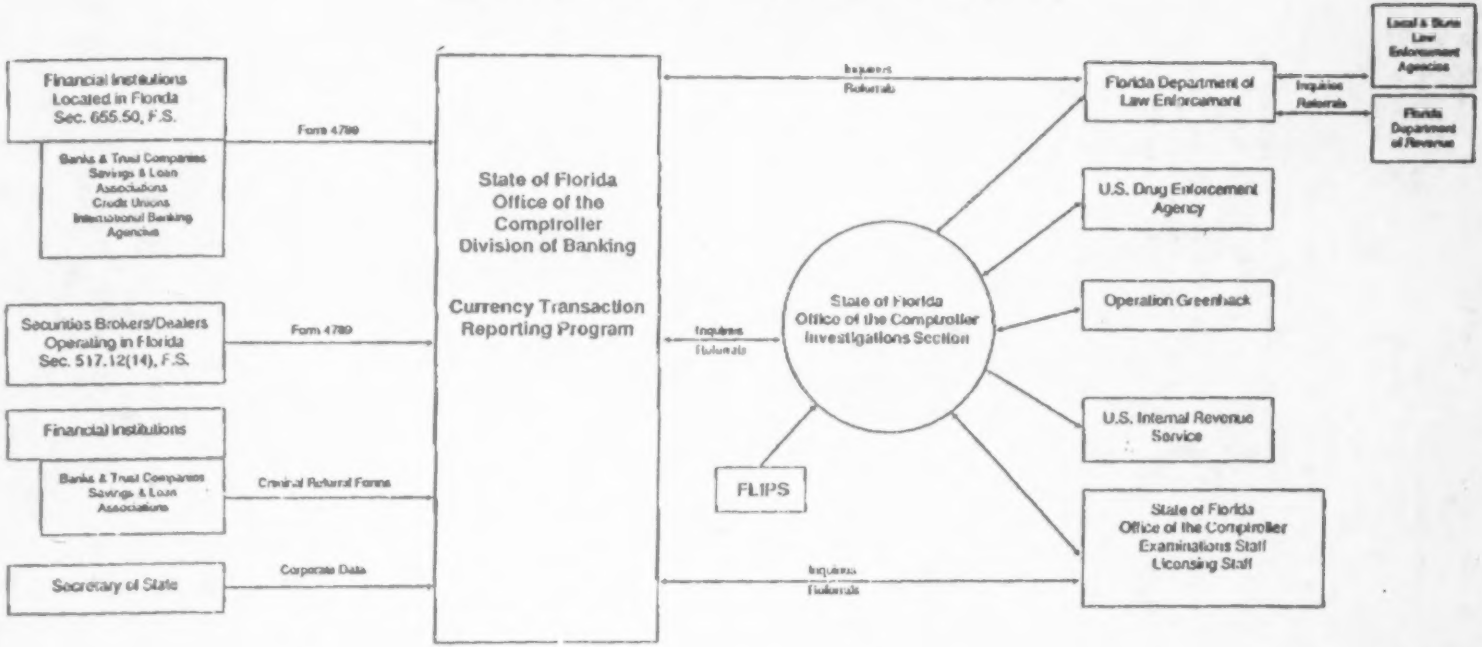
We are proud of our efforts to combat money laundering. We will continue to expend maximum effort to insure that our financial institutions are not utilized by money launderers. We are committed to providing state law enforcement with transaction data in a timely fashion. At the same time, the undeniable truth is that if the federal government would allow state regulatory and law enforcement agencies reasonable access to federal transaction data there would be no need for the state to have a separate currency transaction database.

The Treasury Department is in the process of developing the first central repository of information for agencies involved in the tracking of illegal drug profits. The database will be known as the Financial Crimes Enforcement Network, or FINCEN. It appears that substantial resources are now being allocated toward FINCEN. I am highly optimistic about FINCEN's ability to provide extremely valuable information, and am heartened at the seemingly high level of cooperation between federal agencies in their efforts to get FINCEN off the ground.

There has been some indication that state and local law enforcement and regulatory officials will have access to FINCEN. Without this access, states desiring to be in the forefront of efforts to identify and investigate money laundering activities will have to continue maintaining separate databases, at a substantial cost to the state and the financial institutions that are burdened with duplicative filing of reports.

I am firmly convinced that as a state and nation we have much to gain by maintaining the highest level of cooperation between all regulatory and enforcement agencies. I offer FLIPS as an example where state and federal agencies have managed to share data in a way that allows agencies to combine resources when need be, and avoid following in each others footsteps when it is unnecessary. I ask that the Senate encourage the Treasury to share FINCEN information to the greatest extent possible, for the good of all concerned.

FLORIDA COMPTROLLER'S OFFICE
Financial Investigation Network



CTR STATISTICS

AVAILABILITY: Number of Days from Receipt to Availability in Database

7-1-86	51
1-2-87	75
7-1-87	63
1-4-88	93
7-1-88	43
1-3-89	34
7-1-89	12
10-1-89	11

REFERRALS:

	FDLE	DEA	Greenback	IRS
FY 84-85	29	28		
FY 85-86	79	74	18	
FY 86-87	51	44	44	36
FY 87-88	173	172	172	172
FY 88-89	333	346	333	333

INQUIRIES:

	FDLE	Investigations	DOB
FY 84-85	60	5	10
FY 85-86	176	294	74
FY 86-87	333	164	292
FY 87-88	513	559	369
FY 88-89	650	176	414

NUMBER OF CURRENCY TRANSACTIONS

	Annually	Daily
FY 84-85	114826	608
FY 85-86	280769	1114
FY 86-87	358674	1423
FY 87-88	417636	1657
FY 88-89	436203	1888

DOLLAR VOLUME OF CURRENCY TRANSACTIONS RECEIVED

	Annually
FY 84-85	$4,005,948,750
FY 85-86	$9,207,483,500
FY 86-87	$12,634,178,085
FY 87-88	$16,427,042,080
FY 88-89	$16,816,226,255

OFFICE OF COMPTROLLER
DEPARTMENT OF BANKING AND FINANCE
STATE OF FLORIDA
TALLAHASSEE
32301

GERALD LEWIS
COMPTROLLER OF FLORIDA

LAWRENCE H. FUCHS
DEPUTY COMPTROLLER

December 19, 1989

Honorable Bob Graham
United States Senator
241 Senate Dirksen Office Building
Washington, D. C. 20510-0903

Dear Senator Graham:

During my recent testimony before your subcommittee I indicated that I would provide follow-up information on two subjects. One was the new Treasury Department Intelligence Center and the other was in regard to our efforts against money transmitters.

Enclosed is an article from the December 14, 1989, WALL STREET JOURNAL in which the Treasury's money laundering center is reviewed. Apparently some federal agencies share our views regarding the squandering of information. Regardless, the list of participants does not include any state agencies.

I have also enclosed two letters, dated November 20 and November 22, documenting our involvement in the multistate money transmitter program. Our Financial Investigations Director, Barry Gladden, and David Devick, Financial Administrator, Bureau of International Banking, will be drafting a proposed organizational structure for the group.

Within the State of Florida, Comptroller Lewis has put together a small task force to identify unlicensed sellers of money orders. We anticipate taking action against these entities in a manner which will serve to alert the public. As in many of our other programs, the Comptroller believes that public education is a very cost effective method of enforcement.

We will keep you advised of further developments in these areas, if you desire. Please let me know of any other way we may be of assistance.

Sincerely,

L. H. Fuchs

LHF/ls

Enclosures

Other Agencies Say No Soap to Treasury's Push For High-Tech Tracking of Money Laundering

By Paul M. Barrett
Staff Reporter of The Wall Street Journal

WASHINGTON—Like cops with a new sidearm, Treasury Department officials love to show off their new, high-tech means of tracking down money laundering. They most frequently cite the case of Stefan von Metzger, who operated under the cover of a plastics-brokerage business. Using computers to scan required currency reports from banks, Treasury analysts noticed that, after making a big deposit, Mr. von Metzger would ship equally huge sums to Panama, where many major cocaine merchants shelter their fortunes.

The computer-generated evidence helped convict Mr. von Metzger on charges involving money-laundering for Colombian traffickers. Similar snooping through currency filings has identified 700 targets in the past two years, says the Treasury's enforcement chief, Salvatore Martoche. It represents "our best hope" to disrupt the $110 billion-a-year U.S. drug trade, he says.

But this showpiece case illustrates why other federal agencies view the Treasury's computerized targeting with skepticism. The von Metzger prosecution actually began locally, with an old-fashioned tip from observant bank officials, acknowledges Alan Doody, the resident agent in charge of the Los Angeles office of the Customs Service, which is a branch of the Treasury. Computer detective work in Washington was "secondary," he says.

Rare Leads

Treasury analysts, swamped by millions of currency reports, rarely produce fresh leads, according to David Wilson, head of financial investigations for the Drug Enforcement Administration. As for the Federal Bureau of Investigation, "I doubt that we could find a case that was generated by any bank record," says Larry Potts, the bureau's white-collar-crime chief.

As the Treasury lays claim to a leading role in financial investigations, critics say the department may be overselling its high-tech methods of attacking money laundering when low-tech leads still produce almost all convictions.

Slated Participants In Treasury's New Financial-Crimes Center

- Census Bureau
- Comptroller of the Currency
- Customs Service
- Drug Enforcement Administration
- Federal Bureau of Investigation
- Federal Deposit Insurance Corp.
- Federal Reserve
- Internal Revenue Service
- Secret Service

An example is Operation Polar Cap, the biggest money-laundering case ever, in which indictments were brought earlier this year against the alleged leaders of a ring that purportedly moved $1.2 billion in cocaine profits out of the country in 18 months. The DEA and the FBI say they broke the case based on tips from bank and armored-car-company employees, as well as on undercover work. They say one Los Angeles jewelry business implicated in the scheme made $25 million in cash bank deposits in only three months without prompting an alert from the Treasury.

"If that didn't show up" on analysts' computer screens, "what would?" asks the DEA's Mr. Wilson.

'Hot Leads'

Treasury officials say their computers did spot the anomalous transactions in Polar Cap roughly at the same time that the DEA and the FBI launched their investigations. And Charles Simonsen, head of currency investigations at Customs, angrily rejects the suggestion that mountains of information have buried his analysts. "Treasury is handling the data coming in and handling it pretty well," he says.

Even within the Treasury, though, agents in the field concede that computer-generated leads are frequently redundant. One veteran investigator with the Internal Revenue Service, another arm of the Treasury, says that in a recent six-month period his regional office received seven "hot leads" from Washington. In all seven cases, however, the field office on its own had already identified the suspects, he says.

Now, because of a lack of manpower, only two of the seven cases are being pursued. "We've got too many leads that are solid tips from banks to spend a lot of time on what we get" from headquarters, the IRS agent says. The IRS, which shares responsibility with Customs for analyzing currency reports, has employed 2,800 criminal investigators for the past decade. But the number of annual filings of the most common type of report has grown from a few hundred thousand to 6.4 million. "If you want us to do these cases right, we need more people to do them," the agent says.

Another problem that impedes money-laundering investigations is the parochialism that characterizes much of the government's anti-drug effort. The DEA and the FBI stress undercover operations and turning lower-level crooks into informants. The Customs Service and the IRS emphasize financial analysis. Too often, the agencies hoard intelligence, rather than share it, officials concede.

In response, the Bush administration has revived an old proposal to add yet one more bureaucracy: a Treasury-directed financial-crimes center in Arlington, Va., to collect and cross-reference information from throughout the federal government and the states. The key to the center is supposed to be its access to more than 100 data bases—on bank deposits, criminal suspects, shady land deals, private-airplane flight patterns, and median incomes by ZIP code, to name just a few.

But before the center has even begun operating, there are already indications of resistance from some of the slated participants. For example, the FBI, concerned about security, doesn't plan to feed all of its narcotics intelligence to the center, according to the bureau's Mr. Potts.

New Gaps

And as fast as authorities move to plug gaps in their enforcement efforts, new ones open. Money launderers are thought to have shifted a substantial part of their business to the proliferating array of nonbank financial institutions, especially storefront currency exchanges, check-cashing operations and services that wire-transfer money abroad for immigrants. Most of these businesses operate without significant government supervision, says Charles Saphos, chief prosecutor in the Justice Department's narcotics section. "We regulate the hell out of banks, but the regulation of the currency exchanges is done by state agencies—pay $50 [for a license] and you're a currency exchange, no questions asked."

Another increasingly popular alternative to direct bank deposits is co-mingling drug proceeds with those of seemingly legitimate businesses that can get exemptions from currency-reporting rules because they normally handle a lot of cash. Liquor stores, race tracks and restaurants are among the 75 types of businesses that banks can unilaterally exempt. "It's the biggest chink in the armor right now," says Rick Harms, a senior Customs official.

Drug traffickers are also avoiding the bank watchdogs' by turning to the most basic of all tactics: shipping bulk cash out of the country through the same channels that bring drugs in, primarily airplanes and cargo containers.

In one sense, this last trend is heartening to officials. It demonstrates that increased policing of bank currency transactions has had a deterrent effect. Smuggling suitcases of cash is less convenient than ordering almost instantaneous wire transfers. But given how huge and porous U.S. borders are, it's unlikely authorities can stop more than a small fraction of the flowing out. Once abroad, the money be deposited in banking-secrecy ha such as Panama, and from there, anonymously anywhere in the world

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LARRY L. MEYER, Director

FINANCIAL INSTITUTIONS BUREAU
P.O. Box 30224
Lansing, Michigan 48909

November 20, 1989

Mr. Barry A. Gladden
Financial Investigations Director
Florida Comptroller's Office
The Capitol, Suite 2103
Tallahassee, FL 32399-0350

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Dear Mr. Gladden:

RE: Money Transmitter Regulators Conference

Thank you for attending the first Money Transmitter Regulators Meeting. Your participation was invaluable. The timing of the conference was fortuitous, resulting in attention in the national press. Enclosed for your information and file is a copy of the joint press release issued by Michigan and Texas.

As agreed at the November 1 - 2, 1989 meeting in Austin, a Steering Committee was formed to begin the process of establishing the Money Transmitter Regulators Association (MTRA).

The Steering Committee members are:

California Jim Brodie	New York Roy Parchment
Florida Barry Gladden Dave Devick	Pennsylvania Lou Bensinger
Illinois Carl LaSusa	Texas Nanette Smith
Michigan Murray Brown Karen Porter	

We intend to build on the enthusiasm and momentum of the Austin conference by developing a structure of the Money Transmitter Regulators Association (MTRA) for your approval, either as an independent organization or an autonomous organization affiliated with Conference of State Bank Supervisors (CSBS).

We will also establish other committees, such as Policy, Model/Uniform Legislation, Standardized Examination Report and Procedures, Specialized Money Transmitter Examiner Training, Funding, and Federal-State Relations, to name a few.

As we discussed in Austin, we owe our progress to the Commonwealth of Pennsylvania and Louis Bensinger, who blazed the regulatory trail for us during the past 12 years.

If you have suggestions, issues or concerns that you want addressed, please forward them to:

Nanette Smith, Examiner
Texas Department of Banking
Special Audits Division
2601 North Lamar Blvd.
Austin, TX 78705
(512) 459-4104

or

Karen E. Porter, Examiner
Michigan Financial Institutions Bureau
Consumer Finance Division
P.O. Box 30224
Lansing, MI 48909
(517) 373-3470

We will keep you informed.

Sincerely,

Eugene W. Kuthy

Eugene W. Kuthy
Commissioner

llm

Enclosure

Michigan Department of Commerce
Financial Institutions Bureau
Eugene W. Kuthy
Commissioner

Texas Department of Banking
Kenneth W. Littlefield
Commissioner

PRESS RELEASE

November 3, 1989

Bank regulators from 23 states and the Commonwealth of Puerto Rico gathered in Austin, Texas, to discuss the legal issues and examination standards for Money Transmitters. Money transmitters are private companies that sell money orders, travelers checks, and wire transfers to consumers. The regulators focused their discussion on how to prevent failures of money transmitters, the potential for money laundering and the need for cooperative supervision of this multi-state industry. For many consumers at the lower end of the economic spectrum, money transmitters function as an uninsured "bank", accepting cash and issuing money orders drawn on their account.

The symposium was jointly sponsored by the Texas Department of Banking and the Michigan Bureau of Financial Institutions. Kenneth W. Littlefield, Commissioner of the Texas Department of Banking, said: "It is apparent from the interest of the participants that these topics are of vital concern to state regulators. Money transmitters are growing rapidly, are interstate in scope, and utilize the latest electronic technology. We believe it is imperative that all states coordinate regulation to assure the continued safety and soundness of money transmitters. Coordinated examination procedures, model state statutes, and a national communications network among state regulators are necessary for us to meet our responsibilities."

Michigan Department of Commerce, Financial Institutions Bureau, P.O. Box 30224, Lansing, Michigan 48909
Texas Department of Banking, 2601 North Lamar Blvd., Austin, Texas 78705-4294

Eugene W. Kuthy, Commissioner of the Michigan Financial Institutions Bureau, commented: "In the aggregate, money transmitters issue billions of dollars of payment instruments. Because they deal in large amounts of cash, a potential for money laundering activity exists. Several state banking regulators are already heavily involved in policing money laundering statutes. We must coordinate our activities with federal and state law enforcement agencies to assure that the facilities of money transmitters are not used for illegal money laundering purposes. The flow of information is enhanced when state agencies cooperate by sharing information about the organizations they regulate."

Nanette Smith, an examiner with the Texas Banking Department and organizer of the symposium, said: "There was general agreement that a national capability for development of model legislation, coordinated examination procedures and information sharing is necessary. We are exploring whether the Washington-based Conference of State Bank Supervisors (CSBS) would provide the national facilities to meet the needs of the state regulators of money transmitters."

James B. Watt, President of the Conference of State Bank Supervisors, attended the meeting and commented: "CSBS fully supports the efforts of the state regulators in supervising the money transfer industry. We believe this to be a vital activity."

For further information, contact Harold L. Rose or Nanette Smith, Special Audits Division, Texas Department of Banking, (512) 459-4104.

The following states and the Commonwealth of Puerto Rico were represented by senior regulatory officials:

California

Colorado

Connecticut

Florida

Georgia

Illinois

Iowa

Kansas

Louisiana

Maine

Michigan

Minnesota

Missouri

Nevada

New York

North Carolina

Ohio

Oklahoma

Pennsylvania

Texas

Tennessee

Virginia

Wisconsin

THE NEW YORK TIMES NATIONAL THURSDAY, NOVEMBER 2, 1989

U.S. Regulation Urged for Money Exchanges

By STEPHEN LABATON
Special to The New York Times

WASHINGTON, Nov. 1 — The chairman of the Senate Banking Committee said today that he was preparing legislation to regulate thousands of small businesses through which recent immigrants send money to relatives and also through which vast sums of illegal drug money are laundered.

A small percentage of these storefront operations, which are mostly in cities, are legitimate and licensed under some state laws. They transmit money to other states and countries, cash checks and exchange different currencies.

But the vast majority of them are unlicensed and unregulated and currently fall between the cracks of Federal and state efforts to combat money laundering and consumer fraud. The worst problems are in New York, Florida, California and Texas, where some regulators estimate that billions of dollars are being funneled through the check-cashing and money-transmitting businesses to destinations in South America and Asia.

'It's a 50-State Problem'

Senator Donald W. Riegle, chairman of the Committee on Banking, Housing and Urban Affairs, said the laundering of illegal drug proceeds through these operations is "not a one-state problem or a one-city problem."

"It's a 50-state problem and it is an emergency, so I think we need a Federal answer," the Michigan Democrat said, adding that legislation to regulate such activities "would be put on the fast track."

"Launderers are making an increased use of check cashing and other neighborhood operations," Mr. Riegle said. "This would do the most to disrupt the flow of money into and out of the country."

He said the Bush Administration "has not made an effort to control this problem."

Mr. Riegle made his remarks in response to questions sent through his spokeswoman, Karolyn Wallace, and at a hearing earlier in the day before the banking Subcommittee on Consumer and Regulatory Affairs.

At the hearing, Senator Alfonse M. D'Amato, the New York Republican who also sits on the banking committee, said the current system of state regulation and nonregulation of the money-transmitting operations was "a loophole that drug dealers are exploiting to the fullest."

The proposed legislation, which would affect tysands of checcacashi c companies, money exchgeges and transtitting seicices, comes in response to a handful of cases brought by prosecutors and a recent complaints by state regulators who said state laws and procedures were too weak to enable them to monitor these businesses or prosecute them adequately.

> Drug money is often laundered through check-cashing outlets.

The transmitters typically take cash — often delivered in suitcases or cartons — and then repackage it in less suspicious money sacks and deposit it into a bank account under the name of a real or fictitious company. From there it can be electronically transferred in seconds to Latin America or Asia.

Regulators say the check-cashing operations and money exchangers are often used to convert huge volumes of cash into money orders or checks, which can be easily transported across the border or deposited in a bank account without arousing suspicion.

Senator's Proposals

Mr. Riegle said the legislation probably would require the businesses to have a certified seal in a conspicuous place to show that they had been licensed. It would also enable Federal authorities to prosecute those businesses that do not comply with the new laws. He said money for the enforcement of the new Federal law would come from the illegal money that would be seized.

Senator John F. Kerry, Democrat of Massachusetts, said the legislation would be moving quickly and might be ready after the winter recess.

"We're going to be working pretty hard at getting it out as soon as we can," said Mr. Kerry, who has been holding hearings on money-laundering issues. "But we don't want to rush through with something without fully exploring its consequences."

Salvatore R. Martoche, assistant secretary of the Treasury for enforcement and the Administration official overseeing controls on money laundering, said the Administration would not take a position on Mr. Riegle's proposals until he reviewed them.

Trade Group's Defense

Jerome S. Gagerman, chairman of the National Check Cashers Association, a trade group that represents more than 600 businesses that operate more than 1,500 check-cashing locations, said there was no need for further regulation. "The overwhelming majority of check cashers know their responsibilities and comply with all of the regulatory requirements," he said.

The Federal Bank Secrecy Act requires banks to report domestic deposits of more than $10,000, but regulators say the money-transmitting and check operations make it easy to conceal suspicious transactions.

Bank regulators in New York have already identified more than 130 illegal operations and believe that many more exist. These operations have been identified through complaints of fraud that have been filed by legitimate customers who are often recent immigrants trying to send money to relatives in Latin America. The penalty for such operations under the state law is a misdemeanor punishable by a maximum sentence of one year in jail and a $500 fine.

"The penalty is merely a slap on the wrist," said Timothy D. Mahoney, the director of the special investigations division of the New York Department of Banks.

Similar problems confront regulators in other states. State bank regulators are meeting this week in Austin, Tex., to explore the growing problem. Florida's comptroller, Gerald Lewis, said that in his state, "it's a monumental problem." He added in his testimony that the state did not regulate check cashing or money transmitters.

STATE OF MICHIGAN

EUGENE W. KUTHY
Commissioner

JAMES J. BLANCHARD, Governor

FINANCIAL INSTITUTIONS BUREAU
P.O. Box 30224
Lansing, Michigan 48909

DEPARTMENT OF COMMERCE
LARRY L. MEYER, Director

November 22, 1989

Mr. Barry A. Gladden
Financial Investigations Director
Florida Comptroller's Office
The Capitol, Suite 2103
Tallahassee, FL 32399-0350

Dear Mr. Gladden:

RE: Money Transmitter Association
First Steering Committee Meeting

This will confirm that the Steering Committee of the Money Transmitter Regulators Association (MTRA) will hold its first meeting on:

Thursday, January 11, 1990 - 8:30 a.m. to 5:00 p.m.
Friday, January 12, 1990 - 8:30 a.m. to 12:00 p.m.

We will meet at the offices of the Conference of State Bank Supervisors, 1015 - 18th Street, NW, Suite 1100, Washington, D.C. 20031.

Hotel Arrangements
Nanette Smith has secured a government rate of $79.45 at the:

Hyatt Regency Arlington
1325 Wilson Boulevard
Arlington, VA 22209
Phone: (703) 525-1234

(You may have to mention the state of Texas when making reservations to assure the rate.)

Ground Transportation
Both the hotel and the offices of CSBS are easily accessible by Washington's Metro Subway. From National Airport, take the "blue line" to the Rossiyn metro station (5 stops) which is across Ft. Meyer Drive from the Hyatt. We will take the metro to the Farragut West station to get to CSBS. Taxi fare from National Airport is approximately $6-$10 to the Hyatt.

Air Transportation
Delta Airlines has again agreed to offer special airfare discounts to those attending a meeting of Money Transmitter Regulators. The telephone number for making reservations is (800) 221-1212. Ask for Special Meetings Booking Agent and give the file reference number H11600. The discount will be 40% on round-trip coach fares or a 5% discount on restricted fares. Your ticket may be issued through Delta Airlines or any travel agent.

Enclosed is a rough draft outline of the issues we will need to address. These ideas were compiled from conversations with various Steering Committee members. It is not all-inclusive, but rather a starting point for discussion.

Dave Devick and Barry Gladden from Florida have agreed to draft a definitive form of an organization structure prior to the meeting. This will save time at the meeting and give us a starting point for further discussion.

If you have any additional issues or concerns that you would like added to the "agenda", please FAX them to me, and I will have them ready for the January meeting.

Karen Porter, FAX (517) 335-0908

It's been a pleasure speaking with you these last few weeks, and I look forward to seeing you in Washington!

Sincerely,

Karen E. Porter, Examiner
Sale of Checks/Money Transmitter Unit
Consumer Finance Division

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Enclosure

MONEY TRANSMITTER REGULATORS ASSOCIATION
STEERING COMMITTEE MEMBERS

California
Jim Brodie

Florida
Barry Gladden
Dave Devick

Illinois
Carl LaSusa

Michigan
Murray Brown
Karen Porter

New York
Roy Parchment

Pennsylvania
Lou Bensinger

Texas
Nanette Smith

Rough Draft Outline

1. Develop Organizational Structure
    a. Statement of Purpose
    b. Designate MTRA Leadership
    c. Establish Committees
        i. Policy
        ii. Funding
        iii. Model/Uniform Legislation
        iv. Standardized Examination
        v. State-Federal Relations
        vi. Money Laundering
        vii. Auditing

2. Independent Organization or Autonomous Affiliation with CSBS

3. Survey to all States (Mailing List and Conference Participants)

4. Draft Proposal to CSBS

5. Assignments (Committee Heads)

6. Other Matters

7. Next Meeting

8. Adjournment

Senator GRAHAM. Our second panelist is Mr. Peter Fowler, Vice President and Department Head, International Private Banking, Barclays Bank in Miami.

STATEMENT OF PETER FOWLER, VICE PRESIDENT AND DEPARTMENT HEAD, INTERNATIONAL PRIVATE BANKING, BARCLAYS BANK IN MIAMI

Mr. FOWLER. Good morning. As Vice President of Barclays Bank in Miami and as Manager of the International Private Banking Division, and as the immediate past President of Florida International Bankers Association, better known as FIBA, I appreciate the opportunity to provide some observations about Florida's international banking community's efforts to combat the drug and money laundering problem.

FIBA is a not-for-profit association of banks located in Florida active in international banking. The Association was established in 1979 and has over 84 members, including local banks, Edge Act banks and foreign bank agencies and Representative Offices.

As a representative of a professional association and speaking on behalf of other serious and respected banks and bankers in Florida, we recognize the drug and money laundering problem. While banks and bankers have recently become more visible, our role and involvement is only one piece of a larger problem which affects our community, our nation and the entire world.

We are the first to admit that not all banks and bankers are honorable, but believe a very high percentage are honest, serious, professional and respect banking laws and regulations.

We must confess we do not appreciate it when our critics indict virtually all of our profession for the actions of a few. This would be true for other professionals, including doctors, lawyers and others who would not appreciate generalizations. I will return to this point later.

The Institute of International Bankers, which is based in New York and represents over 200 foreign banks, completed in May of this year a very comprehensive analysis of the "Economic Benefits to the United States from Activities of The International Banking Community." If either of you do not have this report or your staff, we would be pleased to provide a copy for you.

While virtually all member banks of our organization have what is called a Code of Conduct, FIBA took the initiative to endorse and adopt the Statement of Principles drafted by the BASLE [Switzerland] Committee on Banking Regulations and Supervisory Practices and approved by the Group 10 nations.

In February of this year FIBA's Board of Directors supported the statement and in May of this year the Annual General Membership meeting unanimously approved that statement. Each member today is expected to adhere to those BASLE guidelines.

FIBA is in the process of adopting a program initiated by the Greater Miami Chamber of Commerce. The program is called BAD, Business Against Drugs. We want to modify it to read, as you've seen in other articles, Bankers Against Drugs.

The program covers a wide variety of drug related issues in the work place, but one of the key items is the requirement of a pre-

employment drug test. Several small and large banks, including some of us here today, already require pre-employment drug testing, but it is the goal to have all members of the organization to be a member of the BAD program. In our view, it is a very practical and pragmatic approach and is a clear statement to the working force and to the community.

In 1988, Florida established a Study Commission on International Banking and Trade, which is Chaired by Comptroller Gerald Lewis, and its 15 members include a variety of specialists, four of whom are past Presidents of the banking organization.

The Comptroller's Office has taken the initiative to propose minimum audit standards for compliance with State and Federal regulations. The draft proposal, which details 14 points, is in the final stages and has been well received by bankers and auditors and is expected to be issued in the near future. This is a first for Florida and reflects the cooperation between the public and the private sector.

FIBA cosponsored in October of 1989 of this year a Symposium on Drug and Money Laundering in conjunction with the Miami Coalition and the University of Miami. At that conference I reviewed some specific action steps some banks have taken which are well above and beyond minimum requirements. We believe many banks have taken this initiative on their own and not necessarily reacting to regulations.

Drug and money laundering problems have created new risks and responsibilities for banks and bankers. Ten years ago certain aspects of international banking was not impacted by State or Federal laws and regulations. Today, as you are aware, dozens of State and Federal agencies affect our day-to-day business because the law, prudence and due diligence dictates banks must adhere to the laws.

The Bank's pro-active efforts have resulted in the following:

The first item basic to us is Know Your Client. Banks screen their clients much more thoroughly than many years ago. Today no serious bank accepts what we call a walk-in client. We know our depositors almost as well as we know our borrowing clients. Banks require references from other banks, lawyers, accountants as well as other clients.

Banks document the fact that they know their client via internal memos which detail how the account was referred, what we call call reports or memos which describe visits to a client's home country reflecting his or her business, farming, commercial or other activities.

Years ago little written information about the client was maintained in client files. Today, however, due diligence requires we document our knowledge of the client. We have come to learn that not only can a file be subpoenaed, but an account officer and his memory may also be subpoenaed.

Copies of passports of all signers on an account are required as part of complete identification of a bank's client.

Another item is to have complete records of instructions from clients providing verbal instructions. There is one bank in Miami which now tapes all of their telephone conversations between account officers and clients.

Another item, there are at least two banks in Miami who no longer accept cash deposits as a matter of general policy. These are two non-local banks or two foreign bank agencies.

The next item would be training. FIBA and its sister organization, which is the International Banking Operations Association, have conducted numerous programs and workshops and conferences on a variety of subjects over the years. In 1987 and again in March of 1989 FIBA conducted special programs on drug and money laundering with the IRS, the U.S. Customs and staff of the U.S. Attorney's Office. These programs were videotaped and purchased by banks and used as training tools for existing and future employees.

We have combined with the Florida Bar Association and other professionals to update employees on legal issues affecting banking. The point is that banks in Miami and, as you gentleman know, throughout the United States are dedicating an increasing amount of time, resources and money to train their staff, to enhance computer systems and establish procedures and controls to record and monitor reportable or suspicious transactions as well as educating clients and prospects about various laws and regulations.

We would like to look to the future and offer the following items to consider.

The bank associations and their member banks support the war on drugs and money laundering. The banks have, are now and will continue to cooperate with State and Federal authorities.

We are concerned about the bad publicity and the fear this may drive away legitimate business and we may be left with what we all have come to call the dirty business in Miami, the State of Florida or in fact the United States.

As indicated at the beginning, we, too, are concerned about the poor image of international banks. As in any industry or group, serious and respected individuals or banks would welcome the elimination of bad apples. We would welcome even higher quality audit inspections and stricter enforcement of laws to maintain even higher standards in the financial community to maintain the quality of financial soundness and performance, controls and procedures and management and ownership. We would welcome improve screening of applications to establish new or the purchase of existing banks.

The fifth item, expand the dialogue between the banking industry and government agencies. FIBA took the initiative and met with several agencies, including IRS, U.S. Customs and DEA, but would welcome the opportunity to broaden the dialogue and to work more closely with banking regulators. Banks are prepared to cooperate, but are reluctant to become deputized and assume some of the responsibilities of the law enforcement agencies.

Banks are prepared to cooperate, but are also concerned about the liabilities. In view of both civil and criminal penalties and liabilities, banks want to be sure they are performing their due diligence. As a result, in Florida there is consideration being given to modifying section 896.101 as follows: As I say, this is only in discussion stage, but I think the concept is important.

If a financial institution is a defendant in a proceeding under this section, it shall be an affirmative defense and a consideration

in mitigation of a penalty imposed under this section whether the financial institution had in place at the time of the violation an ongoing currency transaction reporting requirement compliance program which was adequate at the time of the violation to meet audit requirements of Florida's Department of Banking and Finance. That was one long sentence which was drafted by, as you can see, a lawyer.

As we have learned, drug and money laundering is a global problem. While it is useful for the United States to implement mutual legal assistance treaties and tax information exchange agreements, multinational agreements, as we have seen earlier today, would be the best weapon. Harmonization of reporting of cash and suspicious transactions should be the goal.

The Treasury's proposed rulemaking under the BSA regarding international wire transfer of funds is well intended. The proposed 7 points may already be in effect in many of the large banks and, as such, would not seem to be an undue burden. While banks are prepared to cooperate, banks and clients would not welcome an increased burden of monitoring or reporting transactions or other factors which might reduce international trade or the execution and delivery of foreign exchange contracts.

The problem should be defined as a drug and money laundering problem and not narrowly as a bank compliance problem. As such, the burden and responsibility should be shared with others involved in the problem. Consideration should be given, as has been discussed earlier, to scrutinizing those cash or wire transfers with real estate, automobile dealers, airlines, wire transfer companies and other financial services companies.

The banking community would welcome an initiative to simplify and consolidate these laws and regulations. As the laws become more complex, it will be increasingly important to try to keep them simple. Keeping the rules and regulations as straightforward as possible is important as banks must, No. 1, understand and incorporate these into their own policies and procedures, No. 2, train their staff and, No. 3, adhere to the laws.

We appreciate having the opportunity to present these ideas.

Thank you.

Senator GRAHAM. Thank you very much, Peter.

[The prepared statement of Peter Fowler follows:]

PREPARED REMARKS CONCERNING

FLORIDA'S INTERNATIONAL BANKING COMMUNITY's EFFORTS

TO COMBAT MONEY LAUNDERING

BY: PETER R. FOWLER, VICE PRESIDENT

BARCLAYS BANK, PLC, MIAMI

BEFORE THE

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

OF THE

SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

DECEMBER 4th, 1989

As Vice President of Barclays Bank in Miami and Manager of the International Private Banking Division and as the immediate past President of Florida International Bankers Association, (FIBA) I appreciate the opportunity to provide some observations about Florida's International Banking Community's efforts to combat Drug & and Money Laundering. FIBA is an not for profit association of banks located in Florida active in international banking. The association was established in 1979 and has over 84 members including local banks, Edge Act banks and foreign bank agencies and Representative Offices.

As a representative of a professional association and speaking on behalf other serious and respected banks and bankers in Florida, we recognize the drug and money laundering problem. While banks and bankers have recently become more visible, our role and involvement is only one piece of a larger problem which affects our community, nation and the world.

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We are the first to admit that not all banks and bankers are honorable but believe a very high percentage are honest, serious, professional and respect banking laws and regulations. We must confess we do not appreciate it when our critics indict virtually all of our profession for the actions of a few. Other professionals including doctors, lawyers and even elected representatives do not appreciate generalizations. I will return to this point later.

To provide you with a sense of the size and importance of the international banking community in Miami, I would like to refer to the latest Study conducted in June, 1988 by the University of Miami for FIBA. The total number of direct hire employees was calculated at 3,500 and the total direct and indirect economic impact of the international banking community was estimated to have increased 16% from the previous study of two years earlier to a total US$791 million.

The Institute of International Bankers, which is based in New York and represents 245 foreign banks, completed, in May 1989, a comprehensive analysis of the "Economic Benefits to the United States from Activities of The International Banking Community". If you do not have this report, we will arrange to provide copies.

While virtually all member banks have a Code of Conduct, FIBA took the initiative to endorse and adopt the Statement of Principles drafted by the BASLE(Switzerland) Committee on Banking Regulations and Supervisory Practices and approved by the Group 10 nations. In February 1989, FIBA's Board of Directors supported the Statement and at the May 1989 Annual General Membership meeting, the Statement was unanimiously approved. Each member is expected to adhere to the guidelines.

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FIBA is in the process of adopting a program started by the Greater Miami Chamber of Commerce. The program is called: BAD - Business Against Drugs. We want to modify it to read: Bankers Against Drugs. The program covers a wide range of drug related issues in the work place but one of the key items is the requirement of a pre-employment drug test. Several small and large banks, including ourselves, already require pre-employment testing but our goal is to have all FIBA banks as members of the BAD program. In our view, this is a very practical and pragmatic approach and a clear statement to the community.

In 1988, Florida established a Study Commission on International Banking and Trade, which is Chaired by Comptroller Gerald Lewis and its 15 members include a variety of specialists, 4 of whom are past Presidents of FIBA.

The Comptroller's Office has taken the initiative to propose minimum audit standards for compliance with state and federal regulations. The draft proposal which details 14 points is in the final stages, has been well received by bankers and auditors is expected to be issued in the near future. This is a first for Florida and reflects the cooperation between the public and private sector.

FIBA co-sponsored the October 1989 Symposium on Drug and Money Laundering in conjuction with the Miami Coalition and the University of Miami. At that conference, I reviewed some specific action steps some banks have taken which are well above and beyond minimum requirements. We believe many banks have taken this initiative on their own and not necessarily reacting to regulations.

Drug and Money Laundering problems have created new risks and responsibilities for banks and bankers. Ten years ago, certain aspects of international banking was not impacted by state or federal laws and regulations. Today, dozens of state and federal agencies affect our day to day business because the law, prudence and due diligence dictates banks must adhere to the laws.

The Bank's pro-active efforts have resulted in the following:

1. "Know Your Client". Banks screen their clients much more throughly than years ago. Today, no serious bank accepts a "walk-in-client". We know our depositors almost as well as our borrowing clients. Banks require references from other banks, lawyers, accountants or other clients.

2. Banks document that they "Know The Client". Internal memos detail how an account was referred, and call reports describe visits to a client's home country reflecting his/her business, farming, commercial, etc. activities. Years ago, little written information about the client was maintained in client files. Today, however, due diligence requires we document our knowledge of the client. We have learned that not only can a file be subponed but an Account Officer, and his memory, may be subponed.

3. Copies of passports of all signers on an account are required as part of complete identification of a bank's client.

4. To have complete records of instructions from clients providing verbal instructions, one bank in Miami tapes all telephone conversations.

5. At least two international banks in Miami no longer accept cash deposits as a general policy.

6. Training. FIBA and its sister organization, IBOA (International Banking Operations Association) have conducted numerous programs, workshops and conferences on a variety of subjects. In 1987 and again in March 1989, FIBA conducted special programs on Drug and Money Laundering with the IRS, US Customs, and former staff of the US Attorney's Office. These programs were video taped and purchased by banks and used as training tools for existing and future employees.

We have combined with the Florida Bar Association and other professionals to up-date employees on legal issues affecting banking. The point is that banks in Miami, and throughout the USA, are dedicating an increasing amount of time, resources and money to train staff, enhance computer systems, and establish procedures/controlls to record/monitor reportable or suspicious transactions as well as educating clients/prospects about various laws and regulations.

We would like to look to the future and offer the following as items to consider.

1. The banking associations and their member banks support the war on drugs and money laundering. The banks have, are now and will continue to cooperate with State and federal authorities.

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2. We are concerned about the bad publicity and fear this may drive away legitimate business and we may be left with only the "dirty" business in Miami, the State of Florida and the USA.

3. It is generally accepted that there are three types of international financial markets:

    A. International Trade Market

    B. Grey Market

    C. Black Market

A. <u>International Trade</u> is substantial and the legitimate market place for the free flow of imports and exports around the world. Global trade figures reflect this market is large and healthy to the world's economy.

B. The Grey Market is much, much smaller and is generally regarded as "flight capital" which the USA and most nations have regarded as legitimate and should not be confused with drug and money laundering. It seems universal that capital seeks its owner's level of safety, soundness, liquidity and yield and reflects the owner's appetite for risk and reward.

C. The Black Market is much smaller than the grey market and involves criminal, drug, terrorist and other illegal activities.

Efforts should be focused on prosecuting those involved in the illegal black market.

4. As indicated at the beginning, we too are concerned about the poor image of international banks. As in any industry or group, serious and respected individuals or banks would welcome the elimination of "bad apples". We would welcome even higher quality audit/inspections and stricter enforcement of laws to maintain even higher standards in the financial community for quality of: 1) financial soundness and performance; 2) controlls and procedures; and 3) Management and ownership. We would welcome improved screening of applications to establish new or purchase of existing banks.

5. Expand the dialogue between the banking industry and government agencies. FIBA took the initiative and met with several including IRS, US Customs and DEA but would welcome the opportunity to broaden the dialogue and to work more closely with banking regulators. Banks are prepared to cooperate but are reluctant to be "deputized" and assume some of the responsibilities of law enforcement agencies.

6. Banks are prepared to cooperate but are concerned about liabilities. In view of both civil and criminal liabilities, banks want to be sure they are performing their due diligence. As a result, in Florida there is consideration being given to modifying Section 896.101 as follows:

If a financial institution is a defendant in a proceeding under this section, it shall be an affirmative defense and a consideration in mitigation of a penalty imposed under this section whether the financial institution had in place at the time of the violation an ongoing currency transaction reporting requirement compliance program which was adequate at the time of the violation to meet audit requirements of Florida's Department of Banking and Finance.

7. As we have learned, drug and money laundering is a global problem. While it is useful for the USA to implement Mutual Legal Assistance Treaties (MLATs) and Tax Information Exchange Agreements (TIEAs), multi-national agreements would be the best weapon. Harmonization of reporting of cash and suspicious transactions should be a goal.

8. The Treasury's proposed rulemaking under the Bank Secrecy Act regarding international wire transfer of funds is well intended. The proposed seven points may already be in effect in many large banks and, as such, would not seem to be a burden. While banks are prepared to cooperate, banks and clients would not welcome an increased burden of monitoring/reporting transactions and factors which might reduce international trade or the execution of foreign exchange contracts.

9. The problem should be defined as a Drug and Money Laundering Problem not narrowly as a bank compliance problem. As such, the burden and responsibility should be shared with others involved in the problem. Consideration should be given to scrutinizing those cash or wire transfers with real estate, automobile dealers, airlines, money transfer companies, and other financial services companies.

10. The banking community would welcome an initiative to simplify and consolidate these laws and regulations. As the laws become more complex, it will become increasingly important to try to keep them simple. Keeping the rules and regulations as straightforward as possible is important as banks must: 1) understand and incorporate them into policies and procedures; 2) train staff; and 3) adhere to the laws.

Thank you for giving us the opportunity to discuss these issues.

Senator GRAHAM. Our third panelist is Mr. Charles Intriago, attorney and publisher of Money Laundering Alert.

Charles, I heard your broadcast yesterday afternoon, and maybe the fact that so many thousands of people who were going to come to this hearing felt that they had already gotten all the information stayed home. [Laughter.]

STATEMENT OF CHARLES INTRIAGO, FLOYD, PEARSON, RICHMAN, GREER PROFESSIONAL ASSOCIATION AND PUBLISHER OF MONEY LAUNDERING ALERT

Mr. INTRIAGO. Thank you for having me here, Senator.

I publish Money Laundering Alert, as you said, which is the only publication devoted exclusively to covering this subject. I have attached copies of the first two issues to the statement and the third one will be out this week and I'll mail each of you a copy.

The surprising thing about this whole world hullabaloo about money laundering is that it has taken so long to arrive. In real dollar terms the organized crime family spawned in the 1920's by Al Capone and his brethren were generating as much cash from gambling loan sharking, prostitution, extortion and all the other activities of theirs as do the drug cartels of today. Al Capone was interested in profit and so is Pablo Escobar. There is no difference.

The difference is that today the governments are focusing on the money rather than trying to prove the underlying crimes and they are using computer terminals and artificial intelligence rather than guns and goons, as you might say, were used in those days.

The focus is now on the money, and it makes sense really if you take the profit out of an illegal activity by disrupting, blocking and seizing the flow of money. As we say here, the results can be far more positive than a hundred Just Say No programs, although those are not to be denigrated.

The significance of the money laundering effort is that it focuses on that one point in the trafficking loop where by necessity the traffickers and their agents, the launderers have to come in contact with the legitimate economy. Until that point when the cash is generated everybody who has been involved in the transactions have been members of the criminal underground.

So that when you're generating what is estimated to be $220 million a day, which is the lowest Government estimate, that is $80 billion a year divided by 365, when you're generating $220 million a day mainly in small bills, and as a Government agents say, a million dollars in $20 bill weighs 113 pounds, and it takes 441 bills to make up a pound.

When you're dealing in massive sums of money you've got to find ways to either smuggle it out or ingest it into the legitimate economy either through financial institutions, car dealers or airplane dealers.

You all amended the law last year to make it a part of the definition of financial institutions to include car dealers, plane dealers, yacht dealers, real estate settlement agents and other businesses which the Treasury Department believes have a high usefulness in obtaining information from them.

Most of those other businesses, by the way, you've asked a question about this previously, Senator, the car, plane and yacht dealers presently are not required to file the so-called 4789, the CTR. They are still required to file the Form 8300, which is a provision under the Tax Code, Congressman Shaw, and I believe you're on the Ways and Means Committee, and in the 1988 Anti-Drug Abuse Act Congress elevated the failure to file that Form 8300 from a misdemeanor to a felony.

A number of car dealers around the country have recently been stunned by IRS in Washington, D.C., Irvine, Kentucky, Greenville, South Carolina and Cincinnati, Ohio for their failure to file those forms. So it's serving as a very useful tool in IRS and governmental efforts against those non-financial institution businesses now governed by the Bank Secrecy Act.

So that by necessity the traffickers and their launderers have to come in contact with the legitimate economy and their efforts to move the money, disguise it, invest it and use it. Without the ability to do that, it's not a viable business, and we say as a consequence the drug problem would not be as severe. In our opinion, that is the one vulnerable point where you can score some significant success in this battle.

In our opinion, the money laundering laws and the Government efforts that are now underway and that were started let's say starting in 1986 when money laundering was made for the first time a Federal criminal offense are probably the most significant law enforcement developments in the last 25 years because those laws can be applied to every type of criminal activity.

When I served as a Federal prosecutor some 15 or 16 years ago and we were chasing corrupt politicians and narcotics traffickers we didn't use the fancy term of money laundering. We used to call it cash flow. It's a long-standing investigative and prosecutive device and now that it's a formal Federal offense it gives the Government an arsenal that is quite impressive.

So that the laws that Congress had enacted in title 18, in title 31, which contains the Bank Secrecy Act, and in title 26 in our opinion can be applied to every type of criminal activity in the near future just as with the mail fraud statute which has been used against corrupt politicians on the theory that the fraud that they commit is defrauding the people that they represent of their right to his honest and faithful services.

We believe that the money laundering laws will be applied and I understand that Mr. Saphos' shop and others at the high levels of the Justice Department are determining ways where those laws can be applied to nondrug trafficking offenses as well, and that makes sense.

So that while the Government may have stumbled on one effective way to attack the drug problem, it has also created an arsenal to be used against other illegal activity, but the road is not smooth.

We allude briefly, Senator and Congressman, to six problems that still remain.

One is turf battles among Federal agencies, and I don't know if that ever will be eliminated. I saw it when I worked in Congress on the House side with Congressman Facell many years ago, and the

same turf battles were seen in the Federal effort against organized crime and they still exist today.

There has been some contention among Federal agencies that the President drug plan as amended by Congress does not provide enough to the Federal money laundering control efforts.

In the last 4 years, Senator and Congressman, to give you an idea, and we have a piece running on this in our next edition, the Federal Government net profit in its asset forfeiture fund which is administered by the U.S. Marshal's Service, and by net I mean after the cost of administration of real estate confiscated and paying agents for their help, the net profit to the Government since 1985 when that fund was established is $645 million. So the Government is actually turning a profit on some of these activities and in fact those are funds that are probably greater than the appropriations for some of the Federal agencies that are charged with participating in the battle.

One thing that you need to know about, and I think word has crept out in the Senate that we're doing a little piece in our issue coming out this week, is Congress apparently forgot to appropriate any funds under title 31, section 53.23, which is the reward provision under the Bank Secrecy Act.

As we report in our issue, apparently when claimants knock on Treasury's door for a reward under the Bank Secrecy Act those claimants are routed to the U.S. Customs Service or to the IRS for payment of rewards under the respective Customs laws and Tax Code. Maybe a well publicized reward program adequately funded can probably yield great results not only in cases filed, but also in recoveries to the Government.

Some nations, as you know, are not doing back flips and rushing to negotiate bilateral agreements with us. There are some money laundering havens, and Panama is reputed to be the No. 1 money laundering haven in the world. Its de facto leader is the only head of state in the world under money laundering indictment. I don't know what is going to be done with Panama, but it's encouraging to know that Luxembourg, for example, has just recently ratified the U.S. Convention and other nations which have traditionally been known as money laundering havens are now getting into the game. Switzerland, for example, has been rocked by scandal in the last year and a half.

So there is no doubt about it that the money laundering effort to be successful must be an international effort and we can't solve the problem here alone.

Peter can amply talk about the bewildering and confusing regulations that are sometimes imposed on financial institutions. There is a continuing dialogue between banking associations and the Treasury Department concerning the intelligibility of those regulations and maybe some progress can be made.

And last, but not least, of course, it seems that every time Government enacts a new law or undertakes a new effort the money launderers seem to be one step ahead of the cash cops. So their ingenuity is not to be denigrated.

Mr. Chairman, I just wanted to limit those prepared remarks to allow time for questioning.

Thank you very much.

[The prepared statement of Charles Intriago follows:]

STATEMENT

OF

CHARLES A. INTRIAGO, ESQ.

PUBLISHER OF

MONEY LAUNDERING ALERT

ON

MONEY LAUNDERING

BEFORE THE

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

UNITED STATES SENATE

DECEMBER 4, 1989

Mr. Chairman:

Thank you for inviting me to present my views on money laundering. I publish **Money Laundering Alert**, the only publication devoted exclusively to covering money laundering developments on the world level. Copies of the first two issues are attached to this statement. The third issue will be published this week.

The surprising thing about the present interest in money laundering is that it has taken so long to arrive. In real dollars, the organized crime family spawned in the 1920's generated as much from gambling, loansharking, extortion and prostitution as do the drug cartels of today.

Profit was the motive of Al Capone as it is of Pablo Escobar.

The difference is that today governments have opened a major new front in the war where the principal armaments are computer terminals and artificial intelligence rather than guns and dogs. While there is still an effort to attack and prove the underlying crimes, the focus is now on the money.

It makes sense. If you take the profit out of an illegal activity by disrupting, blocking and seizing the flow of money the results can be more positive than a hundred "Just Say No" programs.

The significance of the money laundering effort is that it concentrates on the one point in the drug trafficking "loop" where the first contact is made with the "legitimate" economy. Until the money changes hands in a drug deal the involved parties have been members of the criminal underground.

The money, in massive amounts in small bills, forces those elements to come in contact with banks, car and airplane and yacht dealers, real estate brokers, shipping companies and other legitimate businesses, in their efforts to move it, disguise it, invest it and use it.

Without the ability to do that the drug problem would not be as severe.

The money laundering laws and government efforts are probably the most significant developments in law enforcement in the past 25 years. That is because they can be applied to all types of serious criminal activity.

We at **Money Laundering Alert** predict that the money laundering laws Congress has enacted in the past few years, including Title 18, U.S. Code Sections 1956 and 1957, the various sections of the Bank Secrecy Act in Title 31 and the related sections of the tax code in Title 26, will be applied with more frequency to a host of criminal acts ranging from political corruption to terrorism to tax evasion. In other words, any criminal activity where the participants don't write checks to each other.

The analogy is the Federal "mail fraud" law which has been applied to nearly every type of criminal activity where the mails are used.

While the government may have stumbled on the one effective method of attacking drug trafficking, there are presently many problems in the execution.

As we document in **Money Laundering Alert**, there are still many hurdles to a smooth effort. They include:

1. Turf battles among federal agencies.

2. Inadequate funding of federal money laundering control efforts.

3. Lack of funding by Congress of the reward provision of the Bank Secrecy Act.

4. Reluctance by some nations, known as money laundering havens, to join the battle in full force.

5. Bewildering and confusing regulations imposed on financial institutions, and, of course,

6. The ingenuity of the money launderers themselves who always seem to be one step ahead of the cash cops.

Mr. Chairman, there is much more that can be said but because of the time limitation I will limit my prepared remarks to allow time for questions.

Thank you.

Senator GRAHAM. Thank you very much, Charlie, and to the other members of this panel.

On the previous panel we had a considerable amount of discussion relative to Greenback, why it was established, what successes it had had, what its current status was and what future alternatives might be pursued. I would be interested in your assessment from the different perspectives that you represent of how well the Greenback Operation had functioned in south Florida.

Larry, the Comptroller discussed this during his testimony on November 1 before the Banking Committee, and if you would like to restate his observations or add any assessments of your own that have occurred subsequent to his testimony.

Mr. FUCHS. Thank you, Senator. I think that from the Comptroller's Office standpoint we believe that Greenback was successful. Its success, however, is not just measured in respect to the number of cases or the number of convictions, but also in its ability to get agencies to work together.

As Mr. Intriago just mentioned, the competition between Federal agencies, who has the responsibility, who gets the credit for particular cases, has never quite gone away, and a systematic joining of forces, such as in Greenback, I think pays benefits far beyond a simple accounting of the number of arrests or convictions.

I think I hear or heard in the earlier testimony today elements of that separation of those agencies creeping back in. The commitment of resources will remain the same, but the commitments will be directed back or under the control of the specific agencies that are responsible for those individuals rather than the collective effort.

While there are joint investigations going on, I heard in several cases during the testimony the personal pronouns, our case, we will, my organization and then later on saying that such and such a case, Sea Chase was a Customs' case and another case was an Internal Revenue Service case.

That only develops in duplicate and triplicate when you're talking about trying to bring in regulatory agencies, non-law enforcement agencies that have the same commitment and some of the same responsibilities, and you're talking about bringing in State organizations to work with the Federal agencies.

I don't think we are going to stamp that out completely, but I think that Greenback under any other name, and I agree that it doesn't have to be Greenback, but Greenback under any other name, the cooperative effort should be continued and it's worth whatever effort is necessary to ensure that that cooperation does continue to exist.

Senator GRAHAM. Peter or Charlie, any comments?

Mr. FOWLER. From a banker's perspective I guess the only comment I would add would be that I think that the Operation Greenback was instrumental in raising the awareness of the seriousness of the problem in the various agencies that were involved at the beginning in investigating the various cases.

As an aside, but I think you'll appreciate it, it has taken a long time for the banks to understand what the various regulations are and how those have to get disseminated to staff and all the training that gets involved. When officers and employees begin to see

live operations and convictions and indictments and actually agents coming into banks and asking for updated copies of CTRs, they see that there is a genuine support among the different agencies.

As I say from a banker's perspective all I would say is that it just simply raised or heightened the awareness of staff all the way from the tellers all the way up to management about the program.

Mr. INTRIAGO. Senator, an analogy that you might look at and, as I mentioned before, I had some contact with this when I worked on the Government Operations Committee and we looked at the Federal effort against organized crime back in 1968.

Attorney General Bob Kennedy began back in those days or even before the strike force concept of creating a multidisciplinary group of strike forces, and I believe at one time they grew to as many as 18 around the nation. Miami has one or is about to lose it because Attorney General Thornburgh, as you know, has made what appears to be a controversial decision to eliminate the strike forces and have them be subsumed into the various U.S. attorney's offices.

I happen to think that the money laundering effort is of sufficient complexity and in need of financial skills that you need to have in key areas at least areas where there are data showing that there is a significant amount of money laundering going on. You need to have a multi-disciplinary task force comprised of special agents of the IRS, for example, the financial squads of the FBI, the financial analysts and special agents of the DEA, the Customs Service, et cetera, working under the leadership of maybe some assistant U.S. attorneys who are directing their effort against the flow of illegal money.

I believe that it's of sufficient complexity that you can't rely on U.S. attorney's offices without concentrated attention to deal with these complex crimes in an effective way. So that you might want to look at the strike force concept and select cities.

In our second edition of Money Laundering Alert we highlight 10 cities that have cash surpluses, for example, El Paso, Texas, San Antonio, Jacksonville, Miami, and most of them are on the border, and Helena, Montana of all crazy things. These are areas which have maybe one of the indicators as to where you should have a specialized focus.

You may want to consider suggesting to the Justice Department that they establish a set of multi-disciplinary strike forces to deal with nothing but the following, the blocking and the seizing of dirty money.

Mr. FUCHS. Senator, Mr. Saphos said something that is very, very true, and that is in many cases the money laundering effort shouldn't be divorced from the principal anti-narcotics effort. To attack the organization from a financial as well as an operational standpoint is of significant benefit.

To that end within the State of Florida the Department of Law Enforcement has an Organized Crime Review Panel where the representatives of the Department of Revenue, the Department of Banking and Finance, Business Regulation who issue the liquor licenses, et cetera, and the Department of Law Enforcement sit on a quarterly basis and review significant cases of a multi-jurisdiction-

al nature that are occurring within the State of Florida, and the panel's job is to ensure that the resources of all interested agencies and the sanctions that can be imposed by all of those interested agencies are brought to bear on the criminal enterprise that is under review.

I would suggest to you that that's the concept or one of the concepts for an Operation Greenback or whatever other name they want to give to it, and that's the most effective way to deal with a particular problem rather than the fragmented efforts, even fragmented cooperative efforts being led by individual agencies without that overall coordination. Of course, I thought that was the idea of Dr. Bennett's office.

Mr. INTRIAGO. A little foot note, if I may, Senator. I think if these strike forces were to be institutionalized I think they ought to also have institutionalized communications methods to stay in touch with the state and local agencies and also with the international groups.

For example, in Montserrat recently more than half of the financial institutions, many of these letter drop places have been closed down for Scotland Yard working in conjunction with Interpol.

I think that these financial task forces or strike forces, or whatever name is derived or used ought to have institutionalized communications systems with State agencies and with prominent agencies like the Royal Canadian Mounted Police who are doing an outstanding job in Canada in tracking down money laundering in that country which is where the problem is severe and Scotland Yard and other groups like Interpol.

Senator GRAHAM. Thank you. My 5 minutes have long since expired.

Congressman SHAW. Bob, I think our witnesses have brought up something that wasn't necessarily on the agenda, but I think it's something that maybe should be on the agenda at further hearings, and that is what has been brought up as the question of parochialism between various agencies of the Government.

And also, Larry, you touched on Bennett's responsibility, the Drug Czar. I think maybe it's time for the Congress to go back and refocus on exactly what is the purpose of the Office of the Drug Czar. It's very anemically funded and there are not many people working in that particular office. Bill Bennett has been kept busy going back and forth to hearings on Capitol Hill, and he also in the legislation been charged with the responsibility of coming up with a drug policy of the country which has in itself required endless hearings and study.

I think we need really as a Congress to take a real hard look at what did we really intend when we set up a Drug Coordinator. I thought in supporting this particular legislation that the end result of this particular office would be one at Cabinet level, which has been a matter of controversy in Washington, but I think, second, as the authority of the Drug Coordinator to actually commit assaults on the illegal drug industry across this country and around the world.

Now we really haven't seen this happen, and whether it's the fault of the legislation or whether it's the fault of the funding of the particular office or whether it's just a concept that is not going

to work with the traditional separation of departments within this Administration as well as every other Administration that has ever been in Washington.

Would any of the three witnesses care to comment, and I know this certainly is not necessarily within the area of your expertise, but perhaps you do have some comments that you would like to make with regard to the comments that I have just made and the observations that I've made.

Senator GRAHAM. Clay, that was just an excellent question, and I was going to ask one in that same area. So maybe I could ask it and they could respond to both together.

Congressman SHAW. Sure, certainly.

Senator GRAHAM. Secretary Bennett will make his next extension of the drug strategy in February of 1990. As it relates to money laundering if he were to call you and say what should I include in my February 1990 extension of the drug strategy as it relates to money laundering, what advice would you give him?

Mr. FUCHS. Congressman Shaw, I guess my ignorance of the internal operations of the Federal agencies on the Washington level precludes my giving a definitive answer. I can tell you, and it should be clear, and Comptroller Lewis pointed this out in the hearings on November 1st in Washington, that the interagency cooperation and operational cases work very well on an agent-to-agent basis in south Florida. We have an excellent working relationship with individuals within the Internal Revenue Service and the FBI and DEA, and that extends to the DEA Intelligence section up in Washington. But as an organization to organization and agency to agency, that cooperation doesn't exist.

So the only suggestion I can make in answer to your question is the one I alluded to in my comments, and that is we need some leadership. We need somebody to get out in front of the curve, somebody to say, look, we're going to try and do it this way. Let's get together and let's try this in this direction, and if it doesn't work, we'll try something else instead of just reacting to situations as they arise on a fragmented basis.

I guess, Senator Graham, the thing that I would ask that Mr. Bennett include would be in those terms, some multi-agency effort that truly has an up-front direction. I think that's the greatest legacy perhaps of Greenback. That was the first example at least that we saw in Florida of the people saying all right, we're going to go out and look at the problem and we're going to find a way to attack it and we're going to carry forward with some of those attacks.

Right now we are back to the point where 18 months I remember reading where the FBI was going to dedicate a large number of agents to economic crime in general and the savings and loan crisis in particular, an area that I'm certainly familiar with. And just a few months ago I heard where they were going to dedicate a large number of agents to the war on drugs, and those agents were going to come from the Economic Crime Task Force that they established 18 months. It's the same people and we just keep moving them around.

I guess Congress bears a part of that responsibility as well. If we are really going to do something about this, we have to fund the

people. It all boils down to the men and women who are out there investigating the cases, and those people have to be provided to the agencies or the task isn't going to be accomplished.

Mr. FOWLER. Larry summarized it so well I won't add too much other than to say that from a global perspective the key thing is resources. You've got to have financial resources to put this into effect.

The second point that I would add relating to the some 30-plus agencies that get involved in the various aspects of this is to avoid duplication.

From a banker's perspective just to give you one minute example, banks are now required in the State of Florida to provide a copy of the CTR, the 4789 report for cash transactions to both the IRS and to the State of Florida. The spirit of that is to help some of the law enforcement people in Florida for activities that they may be looking into as well.

Banks have responded to that positively in the sense that if it's to help accelerate investigations we are prepared to do that. But quite frankly, it means we have to send the same copy of the same report to two different agencies.

For international agencies with a low level number of transactions it's not a big deal, but when you talk about some of the major local banks with hundreds of branches throughout the State it begins to become a burden, and if there is any way to eliminate those types of duplications, obviously if it can be coordinated on a central basis so much the better.

Mr. INTRIAGO. Senator, although our publication is not in the business of giving advice to the Government, if I may speak as a former Federal prosecutor and committee counsel, I would say that if I were asked to give——

Congressman SHAW. Everybody gives advice to the Government. [Laughter.]

Mr. INTRIAGO. We just report on it. If I were advising Mr. Bennett in his next report, I would say look at what Governor Cuomo just announced in New York last week. As part of his crime package it was reported that he is starting what he calls the State Strike Forces Against Crime Proceeds. We're getting the details on that. It was just announced Wednesday or Thursday. That may serve as a model for Federal adaptation in keeping with what I said before.

Another thing that we're detecting from our coverage around the nation is that a lot of States are jumping on the bandwagon. I don't denigrate their motives, but I have to believe that some of the motives in the State activities are based on getting a cut of the amount seized by the Government.

As part of the 1988 Anti-Drug Abuse Act you all enacted a provision which allows the IRS to establish a special fund under title 26, section 7809, Congressman, where they put 10 percent of the amount seized if the case was developed on information received from State and local agencies.

You might want to consider as an incentive to state and local participation, you might want to consider either increasing that a little bit or expanding the use to which the State and local agencies can apply that money. Presently it's limited to using it to defray

the investigative expenses. You may want to consider that as part of the overall drug effort and expanding that to enable the money to be used for treatment programs, Just Say No or something else in these realms.

We believe that a lot of the States, as I just said, the New York effort, Illinois just enacted a statewide grand jury law, Maryland is considering State CTR legislation, Arizona has just promulgated some new wire transfer guidelines, Florida has just promulgated a series of guidelines on international bank agencies in the State that are probably the leading guidelines in the country and probably the toughest, and New York has just indicted a series of money transmitters. A lot of that is based on the incentive that they have under Federal law to participate in these moneys, and you may want to sweeten the pie a little bit as to ideas that maybe Mr. Bennett might consider.

Congressman SHAW. Well, the 1986 act allowed the Federal Government to turn over much of these assets to the States, and this was done really as a result of a hearing we had in Florida where we saw the cumbersome effect of the ability of the Federal Government to turn these assets over for a profit and they streamlined procedures that the State of Florida had, much of which have since been incorporated into Federal law.

There are many areas where the Federal Government can turn over these seized assets to other law enforcement agencies, local law enforcement and State law enforcement, which takes some of the incentive to hold back information between State, local, and the Federal Government from each other's agency for fear the other will come in and grab the assets and not share the proceeds.

Going back to and, Larry, to follow up a little bit on the comments that you had with regard to what is the real function of the so-called Drug Czar or Drug Coordinator, I don't think from a standpoint of leadership forcefulness that there could have been a better appointment than Mr. Bennett. I just wonder if the job description itself is so awesome, as many of us originally conceived it, that it's almost impossible to come up with an agency that is in fact going to be the coordinator with the leadership ability to come in and really act and coordinate all the agencies of the Federal Government and the bureaucracies that have to be moved toward really a coordinated effort in our war against drugs.

I just question at this point whether or not we will ever see that coordination, not that we should not continue to work toward that goal. But when you really start thinking about it, and you've got the military involved, you've got the State Department involved and all of the other agencies, your former Coast Guard under the Department of Transportation, and of course the Justice Department and the Department of the Treasury. I mean it just goes on and on and on, and there is not one agency, with the possible exception of the Secretary of Veterans Affairs, that is not in some way involved in the war, and the coordination is really nothing that we can see except on a mission basis.

A mission basis is really the only place we could brag of any great coordination, and I thought we saw some down here with the South Florida Task Force which was headed up by Bush. We've seen it in various operations, many of which have been stated here

today. But just on an ongoing basis I really have great concerns as to whether we will ever see the coordination that I think is necessary.

Mr. FUCHS. Congressman, I would never assume to have anywhere near the knowledge of the operation of the Washington Government that you do, but I ask you to ask your colleagues what is the alternative?

Congressman SHAW. Oh, there is none, and we are very frustrated. That's why you see these big omnibus drug bills come down much without proper hearing or background. I know it's simply coincidental, but it always seems to precede an election. So that means there may be another one in 1990.

Believe me, the motivation as far as our intentions is certainly there, but we are acting out of much frustration, and I think we've really got to go beyond. Somebody was speaking of the funnel and, Charles, I think it was you in talking about how there is a point at which you can go back and really make some points. I think we really have to start doing more activities within the source countries. I won't go into that at this particular hearing, but I think that our activities within the source countries have to be tremendously increased and hopefully with the permission of the host country. But with or without it if we're serious that is where we have really got to go to stop some of this stuff.

I'm overdrawn on time, Mr. Chairman.

Senator GRAHAM. Thank you, Clay.

The previous panel talked about some of the non-traditional ways in which money is being laundered and they referred to some of the check cashing and cash transfer entities that have been created.

Larry, this was another topic at the November hearing. Could you comment as to what you think the federal role should be relative to these non-traditional financial agencies that apparently have become involved in money laundering.

Mr. FUCHS. Yes, Senator. The day after the hearings in Washington, November 2nd, we had two members of our staff attend a meeting in Austin, Texas called by the Texas State authorities and included I think some dozen States, including, of course, Texas, Florida, New York, I think Illinois and California, I'm not positive on all the attendees, under the auspices, as I say, of the State of Texas and the Conference of State Bank Supervisors, CSBS, to address the problem of money transmitters, illegal money order operations and the various permutations and combinations thereof.

As a result of that meeting a small group, including the State of Florida was chosen to try and draft model State legislation to address these problems and to look at how they are handled within jurisdictions around the country. Florida, for instance, has no laws regulating them, New York does have some and has recently handed down some indictments.

So I can't offer you specific recommendations right now to address the problem on a State or Federal basis, but we certainly would be happy to keep you advised on an ongoing basis as to the results of that effort and what findings are brought out from it.

Senator GRAHAM. Any other comments on that issue?

Mr. FOWLER. The only observation I would make, and I wouldn't want to usurp responsibilities or powers of the State, but one observation would be that crimes of this nature and penalties should probably be Federal rather than State because otherwise if you're going to have a global or a nationwide organization they can move from one State to another where there may not be local and State crimes and penalties.

Senator GRAHAM. Charlie.

Mr. INTRIAGO. Two things, Senator. Congress may want to specifically amend title 31, 5312 I believe, which is the definitional section, to make it crystal clear that these outfits, the check cashing concerns and the money remitters, fall clearly within the definition of financial institutions.

The other point about novel money laundering techniques, Senator and Congressman, from what we can gather around the nation, the one big mystery in all of this is how much money is smuggled out without filing the so-called CMIR's, the 4790. With the pressure being applied on financial institutions and on other non-financial institution businesses, of course the point of least resistance for the traffickers and the launderers may be to smuggle it out.

Now it's an awesome amount that we're talking about. If the lowest Government estimate of $220 million per day is believed, and let's say they net 20 percent of that as profit, that's $44 million per day. And assuming that they only have to smuggle half of it out, that's $20-some million per day in $5's, $10's, $20's, $100's, and $50's.

Customs still doesn't have a handle on it, and it's a tough task on their part. They had an operation in Texas, I think it was called Operation Buck Stop, where they without notice went on certain planes going to destinations where they felt that there may be some large handling of U.S. currency.

But there is no idea right now how much is smuggled out. It's our understanding that Customs is doing some sophisticated research to come up with electronic and other means by which the smuggling of currency out can be detected even on containers of ships.

Customs has told us that they found one container one time which was just jam packed with U.S. currency holding some unbelievable figure on monies being smuggled out without filing of the form. See, that would be the easiest way for them to do it.

There are some risks and some downsides to it from the trafficker's standpoint, but in order to avoid the hassle of having to SMURF the money through financial institutions, they can just get it out of the country and deposit it in a friendly haven like Panama and then they can bring it back in through wires for investments in shopping centers and all the rest. So I think some progress needs to be made along those lines in order to block the money leaving. It's an unknown fact at this point.

Mr. FUCHS. Actually, gentlemen, if you pass the law, and Peter may be quite correct, that there should be a Federal law, but if you pass the law and make it illegal, you then also create another resource-intensive investigative situation. If a licensed, let's say a legal licensed money transmitter in New York or Florida or Texas says that they have 500 customers and each of those 500 customers

is sending $1,000 back to their relatives in Columbia, how does the investigative agency check that out? How do they know whether those 500 people are legitimate and whether that $500,000 has ever really made it to Colombia? It's a potential other area where we pass a law that may be very difficult to enforce.

Just to give you an idea of the kind of dollar volumes we're talking about, gentlemen, the reported legitimate currency transactions within the State of Florida in the last fiscal year were $17 billion 600 thousand. That's the legitimate ones.

Mr. FOWLER. CTR's.

Mr. FUCHS. CTR's.

Senator GRAHAM. Congressman Shaw.

Congressman SHAW. I have just one more area that I would like to get back into. Charles, you set the stage for me in talking about getting the money, bundling it up, leave the country, then wire transfer it back quite legitimately into the United States and then buy your shopping centers. That of course is a loop hole that the potential legislation I referred to the previous panel about.

Peter, I marked a statement in your statement which says:

> While banks are prepared to cooperate, banks and clients would not welcome the increased burden of monitoring, reporting transactions and factors which might reduce international trade or the execution of foreign exchange contracts.

That sounds like an excellent statement in opposition to the legislation that I referred to.

Do you see any practical way legislatively where we might be able to draft a bill that would require reporting on wire transfers from outside of the country into the country that would not be overly burdensome to the banking industry?

Mr. FOWLER. Well, first of all, I would welcome a copy of your proposal.

Congressman SHAW. If you would like to hold off and reply because you've just heard about it today.

Mr. FOWLER. No, no. My statement is, and then I'll expand on it, basically whether it relates to CTR's or whether it relates to information being required or that would be required to be provided by banks, it's a delicate balance between what banks would like to provide in terms of an effort of cooperation because, as I said from the outset, the banking industry, we're members of the community and we're as concerned about the problem as anybody.

The problem is one of administrative burdens and costs. You've heard enough statements from other people on previous occasions to know in the area of wire transfers the volumes are phenomenal. I mean there is a record day of $1 trillion going through the Fed and the CHIPS in one day in New York a year ago. The average I think is something like $750 billion per day.

I don't have statistics in terms of how much of that are foreign exchange transactions and how much are just dollar transfers, but the big question that bankers, and I'm far from enough of an expert to give you real specifics, but the big concern, as you're asking, is where do you draw the line between the suspicious transactions.

You made an observation earlier, and I guess this is the focus of my point, and that is that as long as the bank and the banker

knows who its client is, you should begin to eliminate the problem and your concern.

You made a statement, for instance, that you could send $1 million in cash down to Panama and then it would get wire transferred back into the States. That's true, but whoever has that account in the States, it's going to be either an individual or a company, and that bank through various State and Federal regulations, in addition to Code of Conduct and what-not, has to know their client. If they know their client well enough, if it's a drug dealer they should not have that client.

That may seem like pie in the sky, but my point is I don't think banks would object to being held responsible for "knowing their client."

I think, anticipating perhaps your follow-up question, and that is what kind of data do you get from which banks and which transactions on wire transfers. To me probably the most critical point is having data when that transfer is initiated.

To give you an example, you have a bank in Broward County, a local bank, and somebody wants to wire transfer $100,000 to Switzerland. The local bank probably doesn't have a dollar account with the Swiss bank. So he has to transfer money to a New York bank. Before he even gets to New York he may transfer it to a southeast bank in Fort Lauderdale. The southeast bank in Fort Lauderdale is going to receive instructions from the local bank and it's going to transfer funds to a New York bank. That New York bank operating in New York is going to credit funds to a Swiss bank in New York because they are all dollars and they get settled back in the States.

But there are two parties in there. You have a local bank, you have a southeast bank, you have a New York bank and you have a Swiss bank. The southeast bank and the bank in New York, their instructions that they are receiving and sending, their parties, their clients are banks. To ask those banks to begin to sift and screen the nature of those transactions is awesome.

To ask the bank in Broward County who has initiated the very first part of the process to make sure that that bank knows its client and knows his nature of the business and knows that this transfer seems to be, in their opinion, legitimate, that to me is where you can place, if you will, the same or greater responsibility on the banks, and that to me is where you would want to focus the data in terms of what is required.

The seven points that are in the proposal from the Treasury on this wire transfer policy, I would say of those seven points, with the exception of one or two, that most major, serious international banks probably are already doing that.

But where the focus in terms of the practical aspect, and I'm sure that the ABA and other associations should work with the committees and Treasury and others, to come up with a practical solution. We've talked about billions of dollars in terms of the transfers, but the number of transactions, too, are phenomenal, and then you begin to hurt your flow of trade and all that.

The focus to me should on the initiation of the transfer and the kind of information that you would want the bank to have, and I would like to think that serious banks already have that.

The other observation I would make is that quite frankly I find the press paints the picture of wire transfers as something that is kind of new and mysterious and in fact it was initiated by the drug dealers as a way for them to move money around quickly and anonymously.

When I refer to those seven points by the Treasury, there are a couple of requirements in there which says that you should know the beneficiary, the names of the accounts and the numbers of the accounts. Most, as I say, serious banks already do that, and those that don't would have to that.

I'm sure the ABA and others are working with whoever it would appropriate in terms of trying to narrow down the specifics on the wire transfer, but I would welcome a copy of your proposal.

Congressman SHAW. Would either of the other two witnesses care to comment?

Mr. FUCHS. Congressman, I would say that we need also to keep sight of the fact that our business, even though my background is enforcement, the business of the office of Comptroller Lewis and the Banking Committees of both Houses of Congress are to preserve the competitive position of the financial institutions of this country in the world economic marketplace, and if we get too restrictive at one end of potential transactions, we are just going to eliminate our institutions from being parties in that transaction.

We can lose sight of the big picture, and as long as there are financial institutions in other countries that are more than willing to handle this cash or these transactions, we've got to try and deal with that end of it I think first through the various treaties.

Second, if I were going to move $140,000 or a million or any other figure overseas, I would go out and buy stock in AT&T or IBM and transfer it in my Merrill Lynch approved account.

Congressman SHAW. You've misunderstood, and I started to interrupt Peter on this same thing. I'm talking about transfers into the country where you're not going to want to invest in a shopping center in Panama City right now.

Mr. FUCHS. Well, in one particular case that I was just involved in money went to the Caymen Islands, to Panama, to the Royal Bank of Canada, to the Bank of London, to a brokerage house in Switzerland and then presumably came back in here some way or another, but knowing the transfers back into this country never would have helped me unless I had somebody inside the organization describing the rest of the system.

Congressman SHAW. Peter.

Mr. FOWLER. When you get a wire transfer coming in from abroad, it has to go into an account in the States, and that account, as I say, is going to be in the name of a company or an individual, and that bank should have the responsibility to know who that client is. So you have an account wherever, and the bank has to know that that client is a legitimate client involved in legitimate activities.

So if you've got a drug dealer who is wire transferring funds from Panama to anywhere in the states, it should be the responsibility of that bank to know who its client is.

Congressman SHAW. I understand that, I agree with you and I recognize the high degree of professionalism that you're speaking

to. Before I went to Congress I was the lead attorney for the Pan American Bank, when it was the Pan American Bank here for all of Broward County, and I know that most of the paperwork mandated by the Federal Government is a waste of time and totally confusing to the bank customer and everything else.

So I'm not trying to put together another paper trail, but we do know that there are billions of dollars of illegally sought money that is going unaccounted for because of this gaping hole that we have in our banking industry, and we do know that there are a number of banks that aren't nearly as conscientious as you are and the banker that you described which does describe the overwhelming majority of the bankers across this country.

But it's a difficult question and I think it's one that we really should address legislatively. I think Larry is quite correct when he says we don't want to overburden our banks so that people around the world aren't using them. I think we can use that same argument for a lot things that we put upon our business people that other countries don't put on theirs, and we certainly don't want to run away capital that would translate into jobs and more competitiveness for the United States' industries.

This is the reason for the hearing process and the reason why we have to be very cautious, but I think that there is a great need for either the type of legislation that I'm proposing or something close to it in order to try to get to the wire transfer aspect, which is a gaping hole in the entire laundering process in which there are no mandated checks.

I appreciate your remarks though and I think they are quite well made.

Mr. FOWLER. It was just a small point. Now I think you I'm sure have found that the State and national banking associations have not objected to that. I think their only concern is to make sure that the banking system provide the kind of data that it needs to to the law enforcement people.

Mr. FUCHS. Again, I didn't want to give the impression that I disagree with your concept, Congressman. I certainly do agree with it. I guess methodology is the problem, and I'm thinking on my feet and shouldn't be. I would be happy to work with you, and I'm sure the Comptroller would be happy to give the resources of our agency to looking at any proposal you've got.

Congressman SHAW. I appreciate that. Thank you.

Senator GRAHAM. Just to continue that line of questioning, and I'm brainstorming now. I'm inspired by an earlier comment that Peter made relative to some modifications of State legislation.

If in fact that depository bank is a key link in this process because of their ability to know the depositor and make an informed judgment as to his intentions, and if what we are trying to do is to focus on those banks that have allowed themselves to be used for this purpose and therefore be able to use our regulatory resources as effectively possible, would it be possible to identify some standards of internal behavior of a bank which if met might allow that bank to receive a certain certified status which would then be accompanied by a reduction in the specific case-by-case regulatory attention directed at that bank and allow those resources to be used for those banks that do not meet the systemic internal standards

that indicate that they are conscientiously pursuing the identification of their depositors for purposes of illicit use of the depository system?

Mr. FOWLER. I guess what I would say, Senator Graham, is that would be a real challenge. I would think that there may be ways in which, and I'll have to expose some ignorance here, but my understanding is that banks are audited and inspected on a periodic basis, depending on their charter, by either State or Federal agencies, but there are no fees or costs associated with that on a direct basis.

If banks were charged, and I may be speaking out of turn here, but if banks were charged for that service, then those banks which require less time because they are cleaner, tighter and more professionally managed, there would be a benefit to them in that fashion. Those banks which require a longer period of time by State or Federal examiners, the costs would be higher. That's one thought that comes to mind.

Your measures in terms of compliance are basically a function of the audit and examination procedures at the State and Federal level.

Senator GRAHAM. I guess maybe the analogy I was thinking of is in some of the environmental areas there are procedures by which if a particular plant or a firm can demonstrate that it is meeting certain standards in terms of its own internal data collection and analysis and response or other indicators that there is systemic effort to comply, that maybe instead of being inspected every 6 months they only get inspected every 12 or 24 months. So that you can use your inspection capacity for those firms that have not indicated that they are prepared to put the emphasis on their internal operations.

Mr. FOWLER. I think you obviously understand the problem well because in fact as a matter of practice that is what happens now. Banks who have lower ratings get audited and examined on a more frequent basis, and those who have had prior ratings and have higher standards get audited on a less frequent basis.

Senator GRAHAM. You're talking about the rating system as to general financial status. What about in terms of compliance with money laundering or other activities that are important because of the bank's role in a criminal activity?

Mr. FOWLER. I think what will happen is that, for instance, the proposed 14 points that the State of Florida is recommending, that that will become part of the overall audit and examination procedure and it will become a major, and I should let Larry speak to this, but I assume it will become an increasing important factor in the overall rating.

In the State of Florida for agencies, and I basically outlined them, you have quality of assets and financial performance and capital, you have controls and procedures and you have management/ownership, depending on whether it's local or State. Maybe you can make a fifth category and simply make it compliance. I'll let Larry help me here.

Mr. FUCHS. I think anything is possible. I think it's a good suggestion and it certainly is analogous to the current regulatory scheme. I think we would have the situation that Peter was allud-

ing to earlier, and that is that those that wish to comply, those that are good organizations will comply and they will take a minimum amount of regulatory resources to ensure the continuation of that compliance, and we can concentrate the efforts in those areas or those institutions where we see potential problems, all of which ignores at least to a certain extent the corrupt individuals who are part of the organizations that enable them to circumvent the entire procedure, if that is their intent, and that is the criminal element that we're hopefully designing the system to identify and prosecute. But I think something along those lines might be the most bang for the buck, if you will.

Senator GRAHAM. If you have any further ideas along those lines, and of course we are particularly interested in the Federal regulatory system, we would be most appreciative.

Mr. FOWLER. Generally speaking I would say that I think the banking association and the banks would be delighted with something like that and would welcome that.

Mr. INTRIAGO. Senator and Congressman, it's not discretionary for a bank to either have or not have a training program, for example, or a compliance officer by law subject to severe penalties that now run as high as $10,000 a day in the Federal regulations, and if you were to cite, 12 CFR 208.14, every financial institution must designate an employee who is to serve as the BSA compliance officer, Bank Secrecy Act, second, institute a system of internal controls, three, test those controls independently by a disinterested party and, four, have an ongoing training program for their employees. These are not discretionary. These are mandatory already.

I don't know if any fines have been imposed on financial institutions. I imagine that many small institutions around the country unfortunately keep up with their obligations and with their information needs by reading newspaper clippings, which is playing with fire, but that's already in place.

Senator GRAHAM. Now they will have a new, a more comprehensive and reliable source of information.

Mr. INTRIAGO. That's the point. [Laughter.]

Senator GRAHAM. Let me just ask one last question, Larry, which was raised by a comment that you made, and that was your redundancy of information, particularly the CTR data.

You also have stated that you have made a number of referrals based on those suspicious CTR reports that you've received. Do you have any suggestions as to how that redundancy can be eliminated and what has been your experience with those cases that your CTR process has led to a referral to a Federal agency?

Mr. FUCHS. The second half first, if I can, Senator. Money laundering investigations, as we've heard, are time and resource intensive. So we don't expect quick results. The program was initiated in October of 1984. So it's 5 years old and we have recently been notified by DEA of four arrests specifically related to information that we have provided. So I think we are beginning to see some tangible results at least on the Federal side.

FDLE advises that there are I think over a 100 cases open at this time that incorporate at least to some extent the data provided from our program.

Back to the first half, however, the program is duplicative. As I said earlier, we have a tremendous amount of cooperation on the local level from agents from all of the interested agencies, IRS, Customs, Greenback, DEA, FBI and in fact our data goes to both offices of Greenback, to DEA, both locally and in Washington and to any other requesting Federal agencies as well as the Department of Law Enforcement.

The problem is that we are in fact duplicating the Treasury Department's data base in Detroit. We are getting a duplicate copy, as Peter pointed out, of the CTR and we are putting the same information into our data bank. That means we're doubling the cost of data entries. As a matter of fact, I believe we hired on an outside contract basis the same company that inputs data onto magnetic tape for them. So the same people are doing the same job twice.

The reason for this is that in order to access the Treasury data base you have to fill out, if you're a recognized agency, you have to fill out a written form and mail it in, and that takes a substantial amount of time, particularly if you've got any time sensitive investigation underway.

In the agreement with the State of California, which is the only one I'm familiar with, where the Treasury data base is shared with the State, the agreement requires that the State inform Treasury of any investigations that are underway, the results of those investigations, the agencies involved, and I guess, if my memory serves me correctly, the agents involved, but requires no such reporting back the other way. The State is not made aware of similar investigations involving the same party being conducted by the Federal agencies that might impact on their investigation, and the Treasury Department, again if I remember correctly, deserves the right to ask for the cessation of the State investigation if necessary and there are various other elements.

What we need is open and complete access to the data base or a simple providing of the magnetic tapes of the inputted data directly to the State without any restrictions so that the State can provide it to their State law enforcement agencies and the local law enforcement if necessary just the way we do now.

All we are doing is duplicating the input of all this data on two exactly identical computer bases, and we did in fact one year compare them to check accuracy.

I keep turning around. May I introduce Doug Johnson, who is the Assistant Director of the Division of Banking and the person who is directly operationally responsible for our data base. But we did compare the data bases and they are 99.-something percent identical, and it cost us in the neighborhood of $400,000 a year that we can ill afford right now.

Senator GRAHAM. If there are no further questions, again I want to express my appreciation for your participation today. This has been very helpful and I hope that you will be able to see some of the results of your education that you've provided to us in our service in the Congress.

Thank you very much.

[The Subcommittee adjourned at 1 p.m., subject to the call of the Chair.]

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